

A
MANUALL:
OR,
ANALECTA.

Being a compendious Collection
out of such as have treated of the
Office of Justices of the Peace, but
principally out of Mr. Lambert,
Mr. Crompton, and Mr. Dalton.

AND
Serving for a REPERTORY;

Formerly styled

The Complete Justice:

But now corrected and purged from a
multitude of Errors which were in the
former Impressions of the same; With
diverse and sundry new
Additions.

*Quæ prius concedebantur per obliquum, conceduntur
nunc de directo.*



LONDON,
Printed by MILES FLESHER
and ROBERT YOUNG. 1642.


Cum Privilegio.





An Advertisement to the

R E A D E R.

 His Manuall formerly (but vaine-
gloriously, to make it more saleable)
styled The Complete Justice, was
originally collected for private use. But,
being lent to a friend, some Copies thereof
were taken, and comming through the hands
of some carelesse and ignorant transcribers,
through their haste and negligence (as it
seemeth) sometimes whole sentences, some-
times whole lines were omitted, and many
grosse faults made, and by the often tran-
scribing multiplied, and afterwards surrep-
titiously imprinted. For the sentence in the
Title page or Frontispice of those bookes, do
intimate and import so much, saying, *Multa
conceduntur per obliquum, quæ non
conceduntur de directo.*

And so being imprinted by a most vitious
Copy, An. 1637. and afterward examined
by the Originall, upon the first light perusall
thereof, there were noted down 628. errata,
and many more upon a review.

This being made knowne to the Printers,
some one was got to revise that Edition.
But as it was an Herculean labour to cleanse
Augæa's stable: so, it seemeth, it was to purge
that first Edition. For in the second Impres-

To the R E A D E R.

tion, An. 1638. divers were left untouched, and new failers made: Inſomuch, that the ſame being examined again by the Original, there were no fewer then 616. errata noted upon the firſt review: and many more afterwards diſcovered. A few of the laſt, for a taſte, are here under expreſſed, and may ſerve for correction of thoſe bookes.

Statutes miſ-recited.

Pag.	Linea	Errata	Corrections.
23	8	17. Eliz.	27. Eliz.
33	23	1. Ed. 6. 24.	2. Ed. 6. 24.
40	30	18. Eliz. 4.	8. Eliz. 4.
64	14	33. H. 8. 12.	12. Ed. 4. c. 9.
68	1	27. H. 8. c. 5.	27. H. 8. c. 24.
171	15	14. Eliz. 5.	1. Jac. 25.
174	23	13. Eliz. 28.	13. Eliz. 2.
180	20	32. H. 8. 5.	22. H. 8. c. 5.
ibid	28	23. Ed. 3.	25. Ed. 3.
220	22	3. Jac. 4.	1. Jac. c. 4.
225	29	42. Eliz. 39.	42. Ed. 3. c. 9.
261	9	1. Ed. 6. 2.	1. Ed. 3. c. 17.

Meer Contrarieties and Diverſities.

Pg.	li.	Errata.	Corrections.
116	18	Imprison for a yeare or more	Imprison for a yeare or leſſe
148	11	Juſt. of Peace may binde	Juſt. of Peace may baile
195	13	Reſuſant excommunicated	Reſuſant not excommunicated
200	18	Where the Indiſtment is ſufficient	Where the Indiſtment is inſufficient
206	9	It is good to raiſe the power of the County	It is not good to raiſe the power of the Coun.
253	23	Toll-gatherer for himſelf	Toll-gatherer for horſes
13	14	Maſters	Miſtreſſe
	20	Maſters	Miſtreſſe
399	40	ſhillings	100. ſhillings

Abſur-

To the R E A D E R. Absurdities.

Pa.lin. Errata Correctiones.

51	11	may bind threatners	may bind Cheators
76	4	assignment of a fine	assessment of a fine
90	9	Proclamation for the - peace	Proclamation for si- lence
97	27	Statute for the peace	Statute for the poor
110	3	without the Kings con- sent	without the owners con- sent
167	pe	tryers of infected per- sons	buryers of infected per- sons
228	13	without his Majesties li- cense	without his Masters li- cense
274	26	one penny for a pound a and halfe	penny for an hun- dred
	27	an halfe penny for a lone pound	an halfe penny for halfe an hundred
276	29	selling barke meet to be barke.	selling oakes meet to be barked

And, whereas there cannot be a greater fault in such a booke, then to lead Justices of Peace into an error, and for a single Justice of Peace to undertake that alone, wherein the assistance of two or more are required: Note that the power of moe Justices then one is in above 60. places ascribed to one alone.

*And further the Reader is to be adverti-
sed, That the quotations of Lambert,
Crompron and Dalton, in this Impression,
are referred to Lam. 1619. Crom. to 1606.
and Dal. to the Editions 1630. or 1635. ei-
ther of which will serve indifferently.*

*But wihall the Reader is to bee admoni-
shed, that neither of those two distinct and
severall Impressions of Dal. is truly paged.*

To the R E A D E R.

For immediatly after pag. 136. both of them retorne back again to 133. 134. 135. 136. and so continue an error of four pages to pag. 276. And from pag. 276. the Edition of 1630. repeateth againe 273. 274. 275. 276. And the Edition of 1635. repeateth 277. 278. 279. 280. so that the first error varyeth foure pages, and the latter error in either of them differeth eight pages from the true Notation of pages, & do continue that error throughout to the end.

Therefore the falsity of those pages must be rectified before you can make due use of this Manuall, the same being reduced and quoted as the true Notation should be.

Note further, that sentences and lines marked in the margent with Comma's, are such as were not in the former Impressions: but some of them were omitted by the haste of the transcribers, and some collected after the lending of the Originall, and before the first printing of it.

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Abjura



Abjuration.

He abjuration of a seditious Sectary ought to be made in open quarter Sessions of the Peace, and there to be entred of Record in the Rols of the Sessions by the Clerk of the Peace. 35. *Eliz. cap. 1. & 2.*
“ *Lamb. 615.*

Abjuration of a seditious Sectary made in open Quarter Sessions must be certified to the Justices of Assise at the next Assises. 35. *Eliz. c. 1.*
Lam. 590.

Justices of Peace cannot arraigne a man upon his abjuration for felonie. *Lam. 551.*

Vide plus Recusants.

Absolve, *vide* Treason.

Accessary and Principall.

*Who shall be an accessary
before the fact.*

1. Abetter, Procurer, or Consenter to a felonie, *Dal. 292, 293. Cro. 41. a. nu. 1. Lam. 286, 287, 288. Stamf. 44. a.*

2. Commander of an evill act is accessary to the felonie proceeding thereof: as if death proceed of beating or robbing. *Lam. 286. Dal. 293. Cro. 43. a. nu. 34.*

3. Commander of one felonie, whereby another ensueth, is accessary to the second: as, *A.*
com-

2 Accessary and Principall.

commandeth *B.* to fire the house of *C.* and thereby many are fired. *Lam.* 286, 287. *Cro.* 43. b. nu. 36.

4 Commander of a felony, though it bee executed in another fashion, time, and place, or manner then was commanded. *Lam. ibid.* *Cro.* 42. a. nu. 14. *Dal.* 293.

5 When a Statute ordaineth an act to bee "treason or felony, which was not so at the common law, and saith not, that the abettors, aiders, comforters, or consenters shall be felons, yet it "shall be felony in them. *Da.* 292, 297. *Lam.* 285.

What not.

The felony commanded is executed on another person, the commander is not accessary. *Li.* 287, 288.

The commanded performing more then was commanded, committeth felony, the commander is not accessary. *Lam.* 287.

The commander of one felony to be done to a man, is not accessary to another kind of felony committed against the said party: as one counselled to poison *A.* giveth it to *A.* and *B.* the counsellor is not accessary to the murder of *B.* *Lam.* 287, 288.

"Commander or counsellor to a fact countermandeth it before it bee done. *Lam.* 289. *Dal.* 293. *Cro.* 42. a. nu. 16.

The knower of a felony without consenting, *Lam.* 289. But such concealment is finable. *Cro.* 41. b. nu. 8. *Dal.* 294.

One not party nor privie who is present at a felony, and doth not disturb it, nor pursue the felon, is fineable. *Lam.* 289. *Dal.* 292.

Accessary after the fact.

Receiver of a felon, knowing him to bee one,
and

Accessary and Principall. 3

and suffering him to escape, whether before or after attainder. *Cro. 41. a. nu. 1. Dal. 294.*

Receiver or comforter of a felon with an evill intent. *Lam. 289. Dal. 294.*

Arrester of a felon by hue and crie taketh the goods, and letteth him go. *Lam. 290.*

One pursuing a felon for his owne goods, taketh many of him not to give evidence against him, whereby he is freed. *Lam. 290.*

Receiver or comforter of an accessary knowing thereof. *Lam. 291. Dal. 297.*

Receiver of ones brother, knowing him to be a felon. *Lam. ibid. Dal. 295.*

Receiver of an approver, or one attainted, or outlawed of felony, knowing thereof. *Lam. 293.*

To harbour a felon attainted in the same County. *Cro. 43. a. nu. 31. Dal. 294.*

But *Lam. 293.* holdeth it reasonable that hee first have knowledge of such a record.

Receiver of stollen goods, knowing them to be stollen, *Cro. 41. b. nu. 3.* many authorities remembered: but *42. a. nu. 17.* he saith, that he must receive the felon also. *Vide Cro. &c. Vide Crompt. 42. b. nu. 23. & 43. b. nu. 37. Dal. 295.*

Who not.

A sutour by word or writing for the deliverance of a felon, knowing thereof, *La. 289, 290. Dal. 294.*

Pursuer of a felon for his owne goods, taketh them againe, and letteth him go. *Lam. 290. Dal. 296.*

Reliever or receiver of one bailed for felony. *Lam. 290. Cro. 42. b. nu. 25. Dal. 294.*

Buyer of stollen goods, knowing thereof, *Lam. 291.* unlesse he receive the felon. *Cro. 42. a. nu. 17. Dal. 295.*

The

4 Accessary and Principall.

The wife receiving the husband, knowing him to be a felon. *Lam.* 291, 292. *Dal.* 295.

Receiver of the striker of the stroke, after the stroke, and before the death. *Lam.* 292.

After acquittall as principall, one may bee arraigned as accessary after the fact, but not before the fact. *Lam.* 292, 557. *Cro.* 42. b. nu. 18.

One may bee accessary to an accessary: as if one feloniously receive or comfort an accessary. *Dal.* 297. *Lam.* 291. *Cro.* 42. b. nu. 24.

Who shall be said a Principall.

Those of the society of a felon, and present at the fact, though not actors. *Stam.* 40. a. *Cro.* 22. 2. nu. 10. 15. *Dal.* 191.

An abetter, procurer, or receiver of a woman, knowing her to bee taken away contrary to the Statute. 3. H. 7. c. 2. *Lam.* 285.

Accessary in one Countie to a felony done in another County may bee indicted where he becommeth accessary. 2. & 3. Ed. 6. ca. 24. *Dal.* 297.

It is no good indictment against an accessary, to say that he received the goods, without saying he received the felon. *Lam.* 500. 291.

Acquittall, *vide* Enditements.

Additions.

In every indictment or presentment where outlawry lieth, the estate of degree or mystery, the county, town, hamlet, or place where the indicted dwelleth, are to be added. 1. H. 5. ca. 5. *Lam.* 488.

What shall bee a good addition of degree or estate.

Duke, Marquesse, Earle, Vicount, Archbishop, Bishop, Baron, Knight, Serjeant at law, Esquire, Gentleman, Alderman, Widow, single Woman,

Additions.

5

Woman, Deane, Archdeacon, Parson, Doctor, Clerke, Parish-Clerke. *Lam.* 488, 489, 490.

What not.

Such as are common to many degrees, as to Gentlemen and Yeomen, are uncertaine, as Farmer, Servant, Butler, Chamberlaine. *Lam.* 489. *Cr.* 109. a. 6. iii. 8.

What shall bee a good addition of mystery.

Chopchurch, Merchant, Grocer, Mercer, Tailor, Broker, Husbandman, Hostler, Lighterman, Waterman, Labourer, Spinster. *Lam.* 489.

What not.

That which is no mystery nor degree, as Citizen; nor any unlawfull trade, as Extortioner, Maintainer, Vagabond, Heretick, Dicer, Carder, &c. *Lam.* 489.

Addition of degree or mystery must be as the party then is: But addition of the place may bee such whereof he was. *Lam.* 489. 490. *Additions Br.* 41.

Addition of degree and mystery must be knit to the proper person. *Lam.* 489.

The Statute of the 1. H. 5. cap. 5. of additions, doth not extend to informations. *Lam.* 510.

What shall be a good addition of place.

Either of the Towne or Parish, if they be both of one name. *Lam.* 490.

Of the Towne onely, where there bee two Townes in one Parish. *Lam.* *ibid.*

Either of the Towne or Hamlet, if there bee two Hamlets in one Towne. *Lam.* *ibid.*

Of

6 Affray and Affrayers.

Of the Towne, if the person bee of a place known within the Towne. *Lam.* 490.

Addition must cōprehend the County, Town, or Hamlet, whereof the party is or was. *Lam. ibid.*

What not.

Of the place where he is Parson, without naming the place of his aboad. *Lam. ibid.*

Affray and Affrayers.

An affray may bee without word or blow : as, to be armed with armour or weapon not usually borne. *Lam.* 126.

“It is no affray properly unlesse there be some
“weapon drawn, or stroke given, or offered to be
“given, or some such attempt. *Dal.* 34.

Constable or other Officer may lay no hands on any intending to make an affray, till weapon drawne, or offer of blow. *Dal.* 34. *Lam.* 132. *Cro.* 146.a.

“An affray is in a house, and the doores are
“shut, the Constable may breake into the house
“to see the Peace kept. *Dal.* 34.

“If the affrayers flie into another house, into
“a Franchise or other County, the Constable
“upon fresh suit may pursue them, but cannot
“meddle out of the County but as a private man.
“*Dal. ibid.*

Affrayer may be commanded by the Constable or other Officer to avoide upon paine of imprisonment : And if the affray be great, they may make Proclamation, and command the parties to prison for a small time, whom he must deliver without fine. *Lam.* 132. *Dal. ibid.*

“After an affray a J. of Peace may commit the
“offenders till they find sureties (if the affray were
“in his presence) if out of his presence, hee may
“send his Warrant, and commit them till they do
“find

Agnus Dei, Crosses, &c.

7

“find sureties. *Vide* Surety of the Peace.

“If a man be dangerously hurt, and the wound
“mortall, although the Justice of Peace may bail
“the offender, yet it is the safest way to commit
“him till there appeare some hope of recovery.
“*Dal.* 35.

“If an affray or affray be made upon a Just.
“or Constable, they may defend themselves. The
“Justice may cause them to be arrested, the Con-
“stable may commit them to the Stockes, and
“after carry them before a Justice of Peace. *Dal.*
“*ibid.* *Vide* Peace.

“An affray is in a corporate Town (which hath
“Justices within it self) while the Sessions bee
“held there, the J. of Peace shal not meddle there;
“but it is otherwise at the Assises. *Cro.* 146.b.

Every private man present at an affray, assault,
or battery, may part them, stay them that come to
the affray with weapon, stay the affrayers till the
heat be over, and then deliver them to the Con-
stable; but may not commit them, unlesse one of
the affrayers be in perill of death. And if he flie
into a house, upon huy and cry, break open the
house, and take him. *Dal.* 33. *Lam.* 131. *Cro.* 146.a.
Vide plus Constable.

Agnus Dei, Crosses, Beads, &c.

If any person, to whom any of these, or any
other superstitious things from the See of Rome
or authority thereof be offered, doe disclose the
name, dwelling, or place of resort of such offerer
or deliverer, to any Justice of Peace of the same
Shire, the same Justice must within fourteen
daies next after declare the same to some one of
the Privie Councill, on paine of Premunire.
13. *Eliz. cap.* 2. *Dal.* 105. *Vide plus* Treason, Mis-
prision, and Premunire.

Alehouses,

Two Justices, one being of the Quorum, may license one to keep a common Alehouse, taking bond with good surety for good rule to be kept in his house. *5. Ed. 6. cap. 25.* "And an Alehouse-keeper put downe by two such, cannot be allowed by any other two, but in open Sessions. *Dal. 29.*

Twelve pence is given to the two Justices of Peace, for taking a recognisance of him that is allowed to keep a common Alehouse. *5. Ed. 6. cap. 25. Lam. 370.* Condition of a recognisance for an Alehouse. *Lam. 354.*

He that keepeth an Alehouse of his owne authority, without license of two Justices, one being of the Quorum, or after prohibition of two such Justices, may bee by two such Justices committed to prison for 3. daies without baile, and till he be bound with two sureties to keepe none after. *Dal. 29. Lam. 354. Vide Stat. 3. Car. 3. which alloweth selling of beere or ale in Faires (though unlicensed:)* As also the punishment of persons unlicensed.

Information of the offence and recognisance taken by two Justices, one being of the Quorum, of an Alehouse kept against the Statute of *5. Ed. 6. c. 25.* and certified by them to the Sessions, is a sufficient conviction without further triall at the Sessions: and they may asseſſe the fine of 10. s. without making proceſſe against the offender. *Lam. 572.*

Information made in Sessions, that an Alehouse-keeper hath done an act, whereby he hath forfeited his recognisance, they may award proceſſe against him, to shew why hee should not forfeit his recognisance. *Quere* what proceſſe. *Lam. 524. 529.*

Enquiry whether Alehouse-keepers have forfeited

Alehouses.

9

feited their recognisance, ought to bee at the Quarter Sessions. *5. Ed. 6. c. 25.*

Fines imposed by the St. of *5. Ed. 6. c. 25.* concerning Alehouses, cannot be altered by the Justices of Peace. *5. Ed. 6. c. 25. La. 578.*

Justices of Peace must certifie the recognisance taken for Alehouses at the next Quarter Sessions after they are taken, or lose *5. Markes. 3. Ed. 6. cap. 25.*

And directly or indirectly selling Ale or Beer unto any Alehouse-keeper not licensed, more then for his necessary provision for his household, shall lose after the rate of *6. s. 8. d.* for every barrell. For the levie and disposall of the penalty see *Victuals. 4. Jac. 4.*

Alehouse-keeper or Inne-keeper suffering any tipling contrary to the *1. Jac. cap. 9. 4. Jac. cap. 5. 7. Jac. c. 10. 21. Jac. cap. 7.* forfeiteth *10. s.* and every such tipler *3. s. 4. d.* For not ability of payment the Alehouse-keepers, &c. to bee committed to the Gaole till the penalty be payed, which penalty is to bee payed within six dayes, or the distresse to bee sold, *1. Jac. cap. 9.* the tipler to the Stockes for foure houres. *4. Jac. cap. 5. Dal. 28. 1. Car. 4.*

Justice of Peace hath power in those cases to minister an oath to witnesses, wherein oath of one witness is sufficient. *1. Car. ca. 4. 1. Jac. 9. 21. Jac. 7.*

The Constables and Churchwardens neglecting to levie, or to certifie the cause thereof by *20. daies* to the Justice that granted the distresse, do forfeit *40. shill.* in default thereof to be sent to the Gaole till payment be made. *1. Jac. ca. 9. Dal. 28. Cro. 78. a.*

Alehouse-keepers and Inne-keepers ought to lodge travellers. *Quere* how he is compellable, and

and see the opinion of Sir *James Ley* chiefe Justice at Lent Assises, 1622. *Dal.* 28.

“No Inne-holder, Alehouse-keeper, or other Victualler shall bee compelled to sell victuals to others, or to have lodging, except the party first pay ready money. *Dal.* 28. *Cok. lib.* 9. fol. 87. b. *Brook. action sur le case* 76.

“Selling of lesse then a full Ale-quart of best Beere or Ale for 1. d. and of 2. quarts of small for 1. d. upon oath of one witnesse the penalty is 20. s. 1. *fac. cap.* 9. 4. *fac. cap.* 5. 21. *fac. cap.* 7. *Dal.* 26.

“Any tipling in an Inne, Alehouse or Victuallinghouse, wheresoever his habitation bee, forfeiteth 3. s. 4. d. 21. *fac. cap.* 7. *Dal.* 28.

“A feme covert keepeth an Alehouse, & selleth Ale, &c. without license, contrarie to her husbands will, the husband is punishable. *Dal.* 30.

“The voluntary confession before one Ju. of P. of any offender against the Stat. of 1. *fac. ca.* 9. or 4. *fac. c.* 5. is sufficient to convince the party offending. And after confession, the oath of the party confessing is proof against any other offending at the same time. *Dal.* 26. 21. *fac. ca.* 7.

“Alehouse-keepers are disabled to keep Alehouse for three yeers after,

1. If they suffer tipling. *Dal.* 31.
2. If they sel not a quart of the best, & 2. quarts of small Beere or Ale for a penny. *ibid.*
3. If they be convicted by Indictment at the Assises, Sessions, or Leet, for being drunk. 4. *fac. cap.* 5. or before one Justice upon oath of one witnesse. 21. *fac. cap.* 7.
4. Continue drinking in another Alehouse. 7. *fac.* 10. 4. *fac.* 5. *Dal.* 32. *Vide plus* Victuallers confession.

In all these cases, if he be licensed again within three

Alehouses.

II

three years, such license is void, and he to be punished as victualling without license. *Dal. 32.*

If any unlicensed Alehouse-keepers be convicted by view of any Justice of the Peace, confession of the offender, or oath of two witnesses, he loseth 20.s. to the use of the poor of the Parish, to be levied by way of distresse by warrant from the Justice of Peace convicting, and within three daies to be sold. *3.Car.cap.3.*

Where there is no sufficient distresse or non-payment, within six daies after conviction, the offender is to bee openly whipped as the Justice of Peace shall limit. *3.Car.cap.3.*

The Officer refusing or neglecting to execute the Justice his precept, is to be committed to the Gaole, untill he do or procure the offender to be whipped, or pay 40.s. to the use of the poore of the Parish. *3.Car.cap.3.*

The second offence is commitment to the house of Correction for a moneth. *ibid.*

The third offence is to remaine in the house of Correction till he be delivered at the generall Sessions. *ibid.*

He that is punished by the Act *3.Car.3.* not to be punished by the Stat. *5.Ed.6.c.25.&c. & contr.*

Aliàs dictus, vide Endictment.

Alien and his triall, vide Triall.

Allegiance, vide Supremacie.

Amerciaments.

The owner of a beast, knowing it to be harmful, & not restraining it, whereby it killeth one, is to be arraigned for his death, and amerced for the King. *Lam. 239. Cro. 24.nu.45. Dal. 238.*

Offenders

Offenders in gathering more amerciaments then are in their lawfull estreats, to be convicted by two Justices, one to be of the Quorum, appointed by the Custos Rotulorū, or in his absence by the eldest of the Quorum, for the oversight of the Sheriffes. *11.H.7.c.15.*

Estreats of amerciaments must be by Indenture between the two Justices (appointed for oversight of Sheriffes bookes) and the Sheriffe or Under-Sheriffe under their seales, or else the Sheriffe to lose 40.shil. *11.H.7.c.15.*

No amerciament for default of appearance, when the Sessions are not summoned by precept, *Lam. 381.* or when the summons is at one place, and kept at another. *ibid.*

Or when the Sessions were the same time at two places, and the party appeared at one of them *Lamb. 384.*

Justices of Peace cannot amerce their fellow for absence from the Sessions; but a Justice of Assise may amerce a Justice of Peace for his absence from the Gaol-delivery. *Lam. 385.*

Clerke of the Peace, Coroners, Sheriffes, Bailiffes of Franchises, Constables of Hundreds, may bee amerced for default of appearance at the Sessions. *Lam. 395.*

Amerciaments of Jurors for concealment, *Vide Jurours. Lam. 400, 401. 3.H.7.cap.1.*

Appearance.

Recognisance taken for the Peace against all the Kings people, and to appeare at the next Sess. by Supersedeas out of the Chancery, testifying surety found there against all the Kings people for ever, will discharge the appearance of the next Quarter Sessions. Otherwise it is, if it bee but untill a day certaine. *Lam. 112, Dal. 173.*

Who

Appeale.

13

Who shall be amerced for default of appearance, and who not, *vide* Amerciaments. Release.

Appeachment, *vide* Approvers.

Appeale.

Justices of Peace can take no appeale of any felony, *Lam.* 5 50. *Statf.* 65. 2. *quare tamen.*

Appeale of robbery, *vide* Attainder.

Apprentices.

One thought fit to bee bound as an Apprentice, upon complaint made, and refusing to bee bound, shall be committed till he will be bound, 5. *El.* 4. *Dal.* 78.

Upon complaint of an apprentice, one Justice may take order betwixt his master and him, and for want of conformity in the master, may bind him to appeare at the Quarter Sessions, *Dal.* 78. and to be discharged by four Justices. If default be in the apprentice, it seemeth one Justice may send him to the house of Correction, *Dal.* 78.

Assent of two Justices is sufficient to the Churchwardens or Overseers, or the most of them, to bind as apprentices the sons of poore parents, not able to keep and maintain them, till 24. yeers of age, or their daughters till 21. yeers of age. 39. *El. ca.* 3. 43. *El. ca.* 2. *Dal.* 83. *Lam.* 33 1. 21. *Jac.* 6. 28. continued by 1. *Jac. c.* 25.

Disposition of money given for putting forth apprentices, and the nomination and placing of them must be by the Corporation, and in towns not corporate by the Parson or Vicar, Constable, Church-warden, and Overseers for the time being, or most part of them. the same to be according to the will of the Giver: And any of the disposers forbearing and refusing to dispose of the money, whereby it is not disposed, shall lose

3. pounds 6. shillings 8. pence, one moiety to the poor of the Parish, the other to the informer, 7.

Jac. cap. 3.

Disposers of such monie given for apprentices, are to take bond with two sureties of such master or mistresse, for such monie as they shall so receive, for the repayment thereof at the end of seven yeers, or three monethes after. 7. *Jac. c. 3.* Or if the apprentice die within seven yeers, then to repay the monie within one year after such master or mistresse death. 7. *Jac. cap. 3.*

The master or mistresse dying within seven yeers, the disposers are with the said mony to put out the said apprentice to some of the said trade, to serve out the residue of his 7. yeers. 7. *Jac. c. 3.*

Monie given for putting forth apprentices, is to be disposed within three moneths after the receipt, *ibid.*

None above 15. yeers old are to be placed by the disposers, and those to be of the poorer sort; and for want of such they may choose others of the Parish next adjoining. *ibid.*

Disposers of monie for apprentices are to accompt before two Justices next adjoining yeerly in Easter week, or within a moneth after: and within ten daies after such accompt made, must deliver all such mony and bonds remaining in their hands, to such as succeed in their roomes. *ib.*

He is no apprentice if he be not retained by Indenture, and by the name of an apprentice expressly. *Cro. 185. b.*

Breakers of trust for disposing monie given for apprentices, are to be examined and redressed by Commission out of Chancery returnable within three moneths, and the party grieved, by an act of the Commissioners, is to be relieved upon his Bill in Chancery. 7. *Jac. cap. 3.*

Certi-

Aprovers or Appeachers. 15

Certificate to the head-officer of City or Borough, that the parents of an apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Embroiderer, or Clothier, me dispend 40. shill. freehold, must bee under the hands and seales of three Justices where the land lieth. 5. *El.c.4.*

Apprentice is to bee discharged by foure Justices in open Sessions. *Dal.79.*

The discharge of an apprentice is to be inrolled by the Clerk of the Peace. 5. *El.cap.4. Vide plus Labourers.*

A master putteth his apprentice into apparell, he cannot take it away, though he part with his apprentice. *Dal.96.*

Every housholder having halfe a plough-land in tillage, may take an apprentice betwixt the age of 10. and 18. to serve in husbandry, which must be by Indenture, 5. *El.ca.4.*

Aprovers or Appeachers.

Gaoler, keeper, or under-keeper, by pain compelleth his prisoner to become an appeacher of others, it is felonie. 14. *El.3.c.10.*

Justices of Peace can take no appeale of an approver, *Lam.550. Stam.144.2. Dal.320.*

One felon accuseth another before the Justices of Peace; they may take his confession & reprieve him, and so proceed against the other. *Lam.551.*

Archery.

“Justices of Assise, Gaol-delivery, and of the Peace, and Stewards of Leets have power to enquire, heare, and determine of the Stat. 33. *H.8.c.9.* and also by their discretion examine all persons, lacking and not having bowes, shafts, and arrowes, according to the forme of the said Statute; viz, being under 60. yeers, and have not in

“his house bow and arrowes, or have not used
 “shooting. And every man-childe betweene
 “seven and seventeen years of age, not having
 “a bow and two shafts : and above seventeen
 “years, four shafts, he loseth for every moneth
 “6 shill. 8. pen. *Lam.* 48 1. 33. *H.* 8. c. 9.

Armour.

Any (except the Kings Officers and their company doing their service) riding or going armed, or bringing force in affray of the people, are to be imprisoned, and lose their armour, 2. *E.* 3. c. 3. *Dal.* 35. *Cro.* 76. a.

Justices of the Peace not looking to the execution of the Statute of fearing the country with going or riding armed, upon inquiry by the Judges of Assise, are to be by them punished, 2. *Ed.* 3. c. 3.

The counterpaine of the Indenture of armour to be kept by the Clerke of the Peace, 4. & 5. *Phil.* & *Mar.* cap. 2.

The Satute 4. & 5. *Phil.* & *Mar.* concerning keeping of horses and armour, with the penalities thereof, are repealed, 1. *Jac.* cap. 25.

Armour and Munition of a Recusant convicted, being in his owne possession, or at his dispose, other then such as shall bee thought meet for the defence of his person and house, by warrant of foure Justices at the Quarter Sessions are to bee seised and kept at such place as the foure Justices at the Sessions shall appoint, at the cost of the owners; and they concealing or disturbing the delivery of it, lose the armour and munition, and by warrant from any Justice of Peace, to bee imprisoned three moneths without baile, 3. *Jacob.* cap. 5. Recusant having his armour seised, is to be charged with such armour and horse, as hee and others of his Majesties subjects

jects shall bee commanded to serve with at mu-
sters, 3. *Jac. cap. 5.*

Any Justice of Peace may arrest any (except
the Kings officers, and such as do him service)
that goe armed, and bind them to the peace, or
good behaviour, *Cro. 76. a. Dal. 30. La. of Con. 13.*

A Justice of Peace may cause weapons to bee
taken from prisoners brought before him, *Da. 36.*

No servant in husbandry, artificer, victualler,
or labourer, shall weare sword or dagger, 12. *R. 2.*
cap. 6. Dal. 36. Cro. 76. b.

Arrests.

An Arrest is a certain restraint of a mans per-
son, depriving it of its owne will and liberty,
and binding it to become obedient to the will of
the law, *Dal. 343. Lam. 93. Cro. 38. a. nu. 1.*

All lay persons under the degree of a Baron, or
Peere of the Realme, are subject to an arrest,
Lam. 93. Dal. 343.

Ecclesiasticall persons not attendant upon di-
vine Service, may bee arrested for the peace, *Lam.*
ibid. Dal. 166.

Constable, or Justice of Peace comming to ar-
rest an affrayer, if he flie into another house, they
may in fresh suit breake open the doore, and take
him: So if hee flie into another County, *Lam.*
134. Dal. 34.

All that come to the Sessions for publike ser-
vice, or upon compulsion, upon complaint and
examination of the matter by oath, shall be freed
from any arrest upon originall processe, *Lam.*
402.

Bailiffe taking above 4. d. for any arrest, shall
forfeit 40. li. 23. *H. 6. cap. 10.*

The officer ought to require the party to come
and find surety of the peace, before he arrest him,

by the opinion of 5. *Ed. 4. 31. Lam. 90. Dal. 166.*

If one required by the officer upon warrant to find surety of the peace, refuse, the officer by vertue of his warrant may convey him to prison. *Lam. 92. Dal. 171.*

“ In all criminall causes where one incurreth
“ losse of member, or of life, every man may ar-
“ rest him, whether he have warrant or not. *Dal.*
“ 344. But where a private man arresteth any in
“ the cases aforesaid, he ought to deliver him to
“ the Constable, or some officer. *Dal. 348.*

“ When a felony is committed, 1. any man
“ that suspects another may arrest him : 2. or if
“ there be common fame that he committed the
“ felony : 3. or if he be prosecuted with hue and
“ crie : 4. or if he be in company of the offen-
“ ders : 5. or he apparently go about to commit
“ a felony. *Dal. 345. vide Cro. 99.b.*

“ A man is slaine, or a felony committed, and
“ an innocent party is arrested for the same, hee
“ cannot bee delivered but by order of law. *Cro.*
“ 40.b. nu. 20. *Dal. 279. 304. Lam. 233.*

A Constable taking an affrayer, may not im-
prison him in his house, but in the Stockes. *Lam.*
133. *Vide Riot, Sheriffe, Prison.*

Arraignment.

Arraignment is commonly a compulfory com-
ming of one indicted of a matter touching life or
such hainous offence, and a pleading not guilty.
Lam. 546.

One comming in freely, and indicted of an
inferiour offence, may be arraigned. *Lam. 547.*

One arraigned of felony, if his case will serve,
may plead a justification or matter in law, *Lam.*
547. And the Court shall assigne him counsell.
Cro. 110. 2. nu. 5.

“ He

“He that is arraigned of felonie shall have
 “leave to bring him into the Court who sold
 “the thing to him, and the Court shall assigne
 “him counsell. *Cro. 110. a. nu. 3.*

Artificers, *vide* Labourers.

Affault.

Affault cannot bee made without the offer of
 some hurtfull blow, or at least of some fearfull
 speech. *Lam. 126.*

To rebuke a collector with foule words, so
 that he depart with fear, without doing his office,
 was taken for an assault. *Lam. ibid.*

To strike at a man, although he were neither
 hurt nor hit with the blow, is an assault. *Lam. ib.*

Maker of an assault, battery, or other trespasse
 upon the body of another, is to be fined.

Servant or workman, convicted by confession
 of two witnesses, before two Justices of Peace, of
 maliciously assaulting Master, Dame, or Over-
 seer, is to be imprisoned a yeer, and any other cor-
 porall punishment saving life and member. *5. El.*
c. 4. & 5. Dal. 80. Cro. 84. a.

If another assault me, if I may escape with my
 life, it is not lawfull for me to beat the other. *Dal.*
210.

An attempt is made to beat a man, his wife,
 father, or mother, or any of his children within
 age, he may lawfully use force to resist it, and may
 justify the beating of the other. *Dal. 210.* Yet by
 opinion of *Elyot, 12. H. 8. fo. 2. b.* it is not lawfull,
 except there be such perill as another is like to
 perish if there be no help. *Dal. 184. 210.*

“A man taketh away my goods which are in
 “my possession, I may take them again with force.
 “*Cro. 65. b. nu. 60, 61. & 137. a. Dal. 181.* But

"I must first lay my hands on him, and disturb
 "him; and if hee will not leave, then I may beat
 "him, rather then hee shall have my goods. *Dal.*
ibid.

Assembly unlawfull, *vide* Un- lawfull assembly.

Affize of Bread and Beere.

Any Brewer, or Baker, or Tipler, breaking
 the Affize of Bread and Ale, to bee fined, 13.
R. 2. cap. 8. Lam. 459.

Any officer taking fine for breach of the Af-
 fize of Bread and Ale, where there ought to be a
 corporall punishment, is to bee fined, 13. *R. 2. c. 8.*
Lam. 459.

Attainder.

One attainted of felony may be arraigned for
 treason committed before or after the attainder.
Lam. 557, 558.

One attainted upon an appeal of robbery,
 may bee arraigned upon an appeal in robbery at
 anothers suit, *Lam. 558.*

One attainted of felony, by standing mute,
 may after be arraigned of another felony. *Lam.*
558.

One attainted of felony, cannot after bee ar-
 raigned for another felony, so long as the first is
 unpardoned, unless it bee in the cases before.
Lam. 557.

After the attainder, the felons grant of goods
 or lands bindeth all persons, except the Land-
 lord, to whom they escheat. *Dal. 303.*

Indictment is, when an offence is found by the
 great Inquest, or other Jury of inquiry.

Badgers and Drovers. 21

Conviction is, when the offender is found guilty by a second Jury, having put himself to triall,

Attainder is, when after such conviction judgment is given against the offender. *Dal. 304.*

A wait-lying, *vide* Way-laying.

Averrements.

No man shall bee received to averre or speake against a record. *Lam. 63.*

Badgers and Drovers.

Licence to Badgers and Drovers, and Loaders of corne, must be in open Sessions, and there registred and kept by the Clerk of the Peace. *5. El. cap. 12. Lam. 610.*

Offences against the Statute of Badgers and Drovers may be enquired of as well by examination of witnesses, as by presentment. *5. El. c. 12.*

The forfeiture due to the informer upon the Statute of Badgers and Drovers, is to bee levied by *Fieri facias*, or *Capias*, awarded by the Justices of Peace. *5. El. cap. 12.*

“ Clerk of the Peace must make and write all
“ Licences made to Badgers, Loaders, and Drovers, and keep a booke to register the same, and
“ the recognisance taken before the Justices of
“ Peace, which recognisance must be [*That they*
“ *shall not do any thing contrary to the statute 5.*
“ *Ed. 6. cap. 14. provided against forestallers,*] and
“ therein write the names and surnames and places of the licensed, with a brieve entry of the
“ Licence, day, time, and place where it was granted.

“ed, and bring the same to every Sessions, taking for the Licence xii.d. for the recognisance viii.d. and for registering iv. d. 5.El.c.12.

Bailement.

Bailement, Mainprise, or Replevin, is the saving or delivering a man out of prison before he hath satisfied the law; so by finding sureties to answer, and to be justified by the law. *Lam.* 340 *Dal.* 312.

He that is bailed, is delivered into the sureties hands to be kept. *Cro.* 152.b.nu.6. *Stam.* 65.a. *Dal.* 312.

If the sureties doubt the escape of the prisoner bailed, a Justice of Peace upon prayer may discharge the sureties, and commit the party to prison. *Dal.* 312. *Cro.* 143.a.nu.13. & 157.a.

A Justice of Peace may cause the bailed to find better sureties. *Cro.* 152.b.nu.4 *Dal.* 312.

It is requisite to take two subsidie men for bail, especially if it be for felony, or suspicion thereof. *Dal.* 313.

To detain a prisoner that is bailable, is fineable. *Dal.* *ibid.*

To baile one not bailable, is a negligent escape. *Dal.* *ibid.*

A Justice of Peace bailing contrary to the law, or not certifying the bail and examination of the felon, is fineable by the Justices of Gaol-delivery. *La.* 345.1. & 2.P. & M.c.13. *Cro.* 167.b. *Dal.* 313.

Where one is bailable hee must offer sureties. *Dal.* *ibid.*

*For what offences a man is not bailable
by a Justice of Peace, by the statute
of*

of W.1.3.Ed.1.15. Cro. 156.a.
Lam. 345.

- 1 Abjured the Realme. *Dal. 316.*
- 2 Approver or Appellour. *ibid.*
- 3 Appealed by an approver. *ibid.*
- 4 Burning a house feloniously. *ibid.*
- 5 Excommunication taken at the Bishops request. *ibid.*
- 6 Felon taken with the manner. *ibid.*
- 7 A knowne theefe and defamed. *ibid.*
- 8 Outlawed. *ibid.*
- 9 Prison-breaker. *ibid.*
- 10 Traitor to the King himfelfe. *ibid.*
- 11 Falsifier of the Kings money. *Dal. 317.*
- 12 Counterfeiter of the Seale. *ibid.*
- 13 Attainted or convicted of felonie. *ibid.*
- 14 Accessary to two felonies, if one principall be attainted. *Dal. 319.*
- 15 Death of man, if he be principall. *ibid.*
- 16 Taken upon Proces of Rebellion ifsuing out of Chancery or Star-chamber. *Lam. 347. Dal. 320.*
- 17 Arrested by Proces, Writ, Bill, or Warrant, in an action personall. *ibid.*
- 18 Persons convicted of felonie, praying Clergy and reprieved. *Cro. 154.a. nu. 2. Dal. 318.*

For what other offences a man is not bailcable by a Justice of Peace.

A Justice of Peace is not to bail but in causes which he may heare & determine. *L. 347. D. 320.*

Murder or any other homicide. *Dal. 315.*

Confessing the fault of manslaughter. *ibid. Lam. 34.*

Taken in the manner for killing. *ibid.*

Knowne to have killed a man. *ibid.*

By

By the King or his privie Councell. *Dal.* 316.

By the absolute, not ordinary command of the Kings Justices. *ibid.*

For trespasses in the forest. *West.* 1. cap. 15.

Confessing the felony whereof he is accused. *Cro.* 152.

Imprisoned for surety of the Peace. 23. *H.* 6. cap. 10. *Lam.* 346.

Speciall commandement of any Justice. 23. *H.* 6. cap. 10. *Lam.* *ibid.*

where bailment is taken away by Statute. vide *Lam.* 349. *Dal.* 320.

For what offences a man isailable.

Taken for light suspicion. *Dal.* 317.

Indicted of petty larceny, not being formerly guilty of another. *ibid.*

Charged, 1. With the receipt of thieves, of felonies. *Dal.* 318.

2. Of commandment force or aide in felony done. *ibid.*

3. With the trespassse that toucheth not losse of life or member, *Dal.* 319. *West.* 1. 15. (if not prohibited by some later statute) appealed by an Approver, being no common thiefe, nor defamed after the death of the Approver. *Dal.* 320.

Indicted of manslaughter, and acquitted. *Lam.* 347.

Acquitted of murder or manslaughter at the Kings suit,ailable during the yeare. 3. *H.* 7. c. 1. *Lam.* 347.

Imprisoned by proceffe out of the Sessions upon penall lawes not forbidding baile,ailable out of the Sessions by two Justices, one being of the Quorum. *Lam.* 348. *Dal.* 319.

Accused of homicides which are not felony.

Acces-

Accessory to felonies. *Dal.* 318.

If they be found of good fame, untill the principall bee convicted or attainted: but after the principall is attainted, he is notailable, except he plead not guilty, or other plea. *Dalt. ibidem* & 321.

Principall in burglary. *Dal. ibid.*

Principall in an indictment of robbery. *Dalt. ibid.*

Principall in an appeale of robbery. *Dal. ibid.*

Attached by Sessions Proces upon indictment of trespassse, may be bailed by one Justice of Peace to appeare at the day to answer the indictment, and may make his Superseedeas, *de cap. indict.* and so of the Exigent. *Dal.* 319.

In every bailment which must bee by two Justices, one of them being of the Quorum, the Justices must be present together at the time of bailment, who before baile taken must examine the prisoners, & receive the information of them that bring them: all which with the bailment they must put in writing, signed or subscribed with their own hands, and certified at the next Gaole-delivery to be holden in the County, *1. & 2. P. & M. ca. 13. Dal.* 314.

The said Justices have authority to bind all persons that can give evidence, to appear the next Gaol-delivery to give evidence against the party at the time of his triall. *Dal.* 303.

Some statutes not onely take bail from the offenders thereof upon their solempne conviction after judgment, but also upon the record of one or two Justices, or by examination or prooffe of witnesses, or other such private triall had before them. *La.* 349. for the forme of bailment. *La.* 252. The forme of the liberate. *Dal.* 396. *Lam.* 352.

Bailiffes.

Bailiffe was punishable in false imprisonment, if he compell the party to go before any other Justice then he chuset. *Lam. 89.94.*

But now the law is adjudged to be, that the Bailiffe or Constable shall chuse the Justice. *Dal. 59. and Coke l. 5. 59. b. Fosters case.*

As the Bailiffe may not compell him that is arrested for surety of the Peace, to go before him that granted the warrant; so it is not reasonable that the Bailiffe shal be drawn out of the division and limit where they both dwell. *La. 95. Dal. 171.*

A Bailiffe arrests a man without a warrant for the Peace, and afterwards procures one, he is punishable in false imprisonment. *Da. 341. Cro. 149. a. Lam. 90.*

A Bailiffe arrests one by warrant for the Peace, the Justice will not bind the party, no action lieth against the Bailiffe. *Dal. 1. Lam. 91.*

Two Justices of Peace, one being of the Quorum, may give unto the Bailiffes of Franchises before they exercise their offices, the oathes of 1. *Eliz.* of supremacie, and 27. *El.* touching their offices. 27. *El. c. 12.*

Bailiffe taking above four pence for an arrest, is to forfeit 40. li. 23. *H. 6. cap. 10.* and lose treble damage to the party damnified.

Bailiffe of the Hundred that executeth not a warrant against any defendant in the Sheriffes Court, shall lose 40. s. 11. *H. 7. ca. 15. Vide plus Warrants.*

Bakers, vide Assize of Bread.

Barettour.

A common Barettour is he, who is either a common mover, stirrer up, or maintainer of suits in law

Bastardy.

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law in any court, or quarels in the country. *Dal.* 36. *Lam.* 440. *Cro.* 84. a. and is to be bound to his good behaviour, and imprisoned. *Lam.* 440. *Vide plus Dal.* 36. *Coke* 8. 36.

Bargaine and Sale, *vide* Inrolment.

Barke of Trees, *vide* Leather.

Bastardy.

Two Justices of Peace, one being of the Quorum, in or next to the Parish, where a bastard left to the charge of the Parish, or likely to be chargeable, is borne, are to take order for the reliefe of the Parish, keeping of the child, and punishment of the reputed father and mother. 18 *El.* 3. 7. *Jac.* cap. 4. *Dal.* 37.

The reputed father an mother not performing the order set downe be two such Justices, the delinquent is to be sent to the Gaole without bail, except they put in sureties to performe the order, or appeare at the next generall Sessions of the Peace. *Dal.* 38.

"If the Justices of the Peace do not agree upon an order, it is to be referred to the bench *Dal.* 35.

"*Quadragesima septimane sunt legitimum tempus mulieribus constitutum*, *Coke Instit.* 123. *D.* 38.

"The mother may be examined upon oath, concerning the reputed father, the time and other circumstances. *Dal.* 37.

"By 7. *Jac.* cap. 4. the mother is to bee committed to the house of correction for a yeere: but not till after delivery, and the childe living. *Dal.* 38.

"If she offend the second time, she is to be committed to the house of correction, and there remaine till she find sureties for her good behaviour, and not to offend again. 7. *Jac.* c. 4. *Dal.* 38.

All

All Justices of Peace in their severall limits, and in their Quarter Sessions, may do all things concerning the statute, 18.El. for Bastardy, which is limited to the Justices of Peace in severall counties, 3.Car. ca. 4.

Reputed father to be bound to the good behaviour till the childe be borne. *Dal.* 37.

Vide plus, House of Correction.

If the putative father shall either before or after the birth of the child, by practice or any other, convey himselfe away, or cause the mother to run or leave her childe, such may bee bound over to the next Gaole-delivery or Quarter Sessions. *Dal.* 37.

Battery lawfull, *vide* Riot, Assault, Breach of the Peace.

Bath and Buxton, *vide* Licence.

Bawdery.

Bawdery is not meerly a spiritnall offence, but mixt, and foundeth somewhat against the Peace. *Lam.* 119. *Dal.* 193.

A Constable, upon information that a woman is in adultery or fornication with a man, or that a man and a woman of ill report are gone to a suspected house in the night, may take company with him, and if he find them so, he may carry them to prison, or to a Justice, to be bound to their good behaviour. *Dal. ibid.*

Resorters to bawdy-houses are to be bound to their good behaviour. *Dal. ibid.*

Keepers of bawdy-houses are to bee bound to their good behaviour. *Dal. ibid.*

Beads,

Beads, *vide* Agnus Dei. 29

Beare-wards, *vide* Licence.

Beere and Beere-brewers,
vide Victuallers.

Beggars, *vide* Rogues and poore
people.

Blockwood, *vide* Logwood.

Bloudshed.

Presentment of bloudshed found in the Sheriffes
Turn, and sent to the Justices of Peace, can nei-
ther be traversed before the Justices of Peace, nor
at the Sheriffes Turn. *Lam.* 543.

Bonds, *vide* Recognisance.

Bowyers, *vide* Archery.

Brasse and Pewter

Brasier or Pewterer may exchange or sell any
Brasse or Pewter, but in open Market and Faire,
or in his house, unlessse upon request of the buyer,
on paine of ten pounds for each offence. 19. H. 7.
c. 6. 4. H. 8. 7. and inquirable at the Sessions. *Lam.*
621.

All working hollow wares of other lay me-
tall, then according to the assize of the lay me-
tall wrought in London, or not setting their seal
on, lose the wares. Searchers of Brasse and Pew-
ter, must bee appointed by the Justices of Peace
at Michaelmas Selsions. 19. H. 7. cap. 6. 4. H. 8.
cap. 7. *Lam.* 621.

Breach,

30 Breach of the Peace, or
good behaviour.

*What shall bee accounted a breach of
the Peace.*

To threaten one to his face to beate him, at
whose suit he was bound. *Lam. 115. Dal. 181. Cro.*
136. b. or in his absence, if he after lie in wait to
do it. ibid.

To command or procure one to doe any un-
lawfull act against the Peace, if it after be done.

Menacings, affrayes, assaults, injurious & violent
handlings and entreatings, battery, and malicious
striking, imprisonment without warrant, to thrust
one into the water to endanger him, to ravish a
woman, to commit felony or treason, *Dal. 181.*
Lam. 127.

A Farmer, Tenant, or Commoner, by threats
or blowes to repulse violence offered his Land-
lord or Maior. *Lam. 129. Dal. 185.*

What act soever is a breach of the Peace, the
doing thereof doth beget a forfeiture of the re-
cognizance, made for keeping of the Peace. *Dal.*
181. Lam. 114.

“ A Justice of Peace certifieth into the Kings
“ Bench that such a man broke the Peace in his
“ presence, the party shall be put to his fine with-
“ out any traverse. *Cro. 131.2.*

What not.

In his absence to threaten to beate him, at
whose suit he was bound to the Peace. *Dal. 181.*

Threats or moderate correction of the Master,
Schoolmaster, Gaoler, to those under their com-
mand, of Parents to the child within age, of the
Lord to his villain. *Lam. 127. Dal. 183.*

To beate with rods a kinsman that is mad, to
the end to reclaime him *Dal. ibid. Lam. 128.*

Con.

Breach of the Peace, &c. 31

Constable, Officer, or any of their company, to strike any for better execution of their office. *Dal.* 180. *Lam.* 128. By threats and blowes to repulse violence offered to ones own person, wife, father, mother, child, master. *Dal.* 184.

Preservation of his own goods, *ibid.* *Lamb.* 129. and *Crom.* 136. b. affirme that the master may beate him that doth assault or beat his servant: but *Dalton* maketh a quare of it, and that a master may onely with sword or staffe defend him. *Dal.* 185. *Pax Reg.* 5.

To kill or hurt one at fence, play, tilt, turnament, or barriers in the Kings presence, or by his command. *Dal.* 184. *Lam.* 129.

To take ones goods wrongfully, if not from his person. *Lam.* 130. *Dal.* 186. 210. is no forfeiture of his recognisance. *Cro.* 65. b. *nu.* 59. 8. 137. a.

So to take anothers Ward. *Dal.* 186. *Lam.* *ibid.*

To disseise another of his Ward. *Dal.* *ibid.*

To trespasse in anothers corne or grasse. *ibid.*

Trespasse lieth at the Common law for threatening to beat one.

Vide plus Forfeiture.

It is no breach of the Peace for a private man to strike or wound another in defence of his own person from beating, wounding or killing; but if he may escape with his life, without being wounded, maimed, or hurt, it is not lawfull, except he first flie as farre as he can. *Dal.* 184. *Cro.* 137. a.

To take a dog of any kind, or other thing of pleasure from the person of another, or in his presence with force of violence, amounteth to a breach of the Peace. *Dal.* 168.

Brewers, *vide* Victuallers.

Bridges.

“ By common right Bridges should be amended by the whole County, for it is for the common ease of the County. *Cro. 187. b.* yet if any have fishings or profit in that river, they are chargeable. *Cro. 186. b.*

A man voluntarily maketh or amendeth a Bridge: hee is not compellable to do the same again, unlesse he and his ancestors have used so to do time out of mind. *Dal. 41. Cro. 186. a.*

“ Where a man and his ancestors have used time out of mind to repair a Bridge, the King cannot acquit him. *Dal. 41.*

It being not knowne who, or what land is chargeable with the repairing of a decayed Bridge, foure Justices, one being Quorum, may tax the Inhabitants and make Collectors, and Overseers for repairing of it: “ And appoint Surveyours, and exact an accompt of them; and if they refuse so to do, the said Justices may make out Proces against them, by Attachments, Precepts, or Warrants under their seales, returnable at the Quarter Sessions, and may allow reasonable costs to the Surveyours and Collectors. “ *22. H. 8. ca. 5. Dal. 40.*

“ A man and his ancestors, or a Corporation, time out of minde used to make a Bridge, though they did it freely at the first and not of right, it shall conclude the heirs and successors. “ *Dal. 41. Cro. 186. a. b. Prior of Stokes case.*

Justices of Peace, where a decayed Bridge is, may award Proces into the County where the party or land chargeable is. *Dal. 40.*

A Bridge lying within a Corporation, the Hundred shall not be charged therewith. *Et è converso. Dal. 40. 41. Cro. 187. b.*

A Bridge lying in two severall Counties, either must repaire his part. *Dal. 40. Cro. 187. b.*

Buckstalls.

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"A common Bridge lying within a Franchise,
"they must reparaire it. *Cro. 187.b. Dal. 40.*

"A man is to reparaire some arches at the end
"of a Bridge: if the Buttresses be decayed, he is
"to follow the course of the water, and to reparaire
"the high way without leave of the owner of
"the land, and lay stones, &c. necessary upon
"the adjoyning land of another. *Crompt. 186.b.*
" *Dal. 42.*

"Hee that is bound to reparaire a Bridge, must
"maintaine the way at each end. *Cro. 186.b.*

Buckstalls.

One suspected to have offended against the statute 19. H. 7. cap. 11. of deer-hayes, and buckstalls, &c. is to bee examined by two Justices at Quarter Sessions, and being convicted by his owne examination onely, is to be imprisoned till he find surety for the forfeiture. 19. H. 7. c. 11. *La. 535.630.* the tenth part whereof the Justices examining shall have. *ibid.*

Buggery.

The sin of Buggery with a man or beast, is felony. 25. H. 8. c. 6. 5. *El. c. 17. Lam. 227.256.421.*

Bull from Rome, *vide* Treasons.

Burglary.

Burglary is when one or more in the night time do breake a dwelling house or a Church, or the wals or gates of a City or walled Town, with an intent to do felony, albeit they carry away nothing. *Dal. 256. Lam. 258.423. Cro. 31.274.1.*

The night is from sun-setting to sun-rising. *ibid. Lam. 259.423.424. Dal. 256.*

What

What act shall make a Burglary without entring into the house.

Putting back the leafe of a window. *Dal.* 256. *Lam.* 262.

Drawing the latch of a door. *Dal. ib. Cro.* 33. b. *Lam. ibid.*

Turning the key being on the inside. *Cro.* 31. b. *Dal. ibid. Lam.* 262.

Breaking the glasse-window, and hooking out of goods. *Lam. ibid.*

Making a hole in the wall, and shooting one within the house. *Dal.* 256. *Lam.* 262. *Cro.* 31. b. *nu.* 7.

The door being open, to put his hand over the threshold, and discharge a dag at any within. *Dal. ibid. Cro.* 32. a. *nu.* 11. *Lam.* 263.

They within cast out their monie for feare, and they without carry it away. *Cro.* 31. b. *nu.* 9. *Lam.* 261, 262. *Dal.* 257.

Without breaking the house.

To set foot over the threshold with a felonious intent. *Dal.* 257. *Cro.* 32. a. *nu.* 13.

To come down by a chimney. *ibid.*

To come in by help of a key. *Crom.* 31. a. *nu.* 8. *Lam.* 262. *Dal.* 257.

To enter the doores being open, and the owner flying to his chamber, to shove at the chamber door. *Dal. ibid. Lam.* 262. *Cro.* 32. b. *nu.* 25.

If pretending to bee robbed, by helpe of the Constable for search they rob the owner. *ib. Lam.* 263. *Dal.* 257. *Cro.* 32. b. *nu.* 24.

If upon conspiracie with a servant, the servant openeth the door, and the thiefe entreth. *Dal. ibid.*

One entring, and the rest standing about the house,

Burglary.

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house, or not farre off. *ibidem*. Lambert 264.

To enter under the threshold.

What place makes Burglary.

Publike, as Church, wals or gates of a City or Town walled: Private, as a dwelling house, if any be within. *Dal.* 257. *Cro.* 33. *a.nu.* 32. *L.* 260, 261.

The family for part of the night is abroad, and in the interim the house is robbed. *Dal.* 258. *Cro.* 33. *b.nu.* 40.

A man hath two dwelling houses, and dwelleth sometime at the one, sometimes at the other, and hath servants at both, and the servants are abroad, in the night the house is broken. *ibid.* *Cro.* 33. *b.nu.* 40. *Dal.* *ibid.*

To break a chamber in a Colledge or Inne of Court, though no body is in the chamber. *Dal.* 258. *Lam.* 261. *Cro.* 33. *a.nu.* 29.

Breaking a barn or stable neere to a dwelling house, to the intent to steale. *Dal.* *ibid.* *Cro.* 32. *Lam.* 261.

Robbing a back-house. *Dal.* *ibid.*

To enter to ravish a woman. *Quere Dal.* 259.

The Host of an Inne breaking into his Guests chamber to rob him. *Dal.* 258.

What not.

Entring onely with intent to beat. *Dal.* 259. *Lam.* 264.

Breaking and departing without entring. *Lam.* 262. but it is felony. *ibid.* *Lam.* 261. it is not burglary in one under 14. yeares of age. *Dal.* 259.

Nor in poore persons, that upon hunger break and steale under the value of 12.d. *Dal.* 260.

Nor in naturall fooles, or *non compos mentis*. *ibidem*.

Burning

36 Burning of houses.

Malitious burning of houses, being dwelling houses, or barnes with corne in, it is felony. *Dal.* 273. *Lam.* 266. 424. *Cro.* 31. 2. *nu.* 3.

Burning of an empty barn in the night feloniously, if it be nigh a dwelling house. *Dal.* 274. *Lam.* *ibid.*

All burning that proceedeth of a former burning that was malicious, is felony. *Lam.* 266.

“One intending to burne anothers house
“ fireth it, and part onely is burned and quenched, it is felony. *Dal.* 274.

“One shooteth unlawfully in a hand-gun, and
“ the fire setteth another mans house on fire, and
“ burneth it downe, it is felony. *Dal.* 274.

Burning of a stack of corne feloniously. *Dal.* 274.

Butchers.

Butcher gashing a hide whereby it is hurt, loseth 20. pence. 1. *Fac. cap.* 22. *Lam.* 462.

Butchers watring any hides, except in June, July, or August, lose 3. shill. 4. pence an hide. *ibid.*

Butcher or any other killing calves to sell under five weekes old, loseth 6. shill. 8. pence a calfe. *Lam.* 453.

Or killing any weanling, bullock, heere, or heifer, under the age of two yeares. *Lam.* 453. 24. *H. 8. c. 9. vide* Victuallers.

Butter and Cheese, *vide* Victuals.

Butts.

Inhabitants of a Towne, not continuing their Butts as they ought, are to lose for every three moneths 20. shill. 33. *H. 8. c. 9. Lam.* 481.

Buying and selling, *vide* Cattell.

Calves

Calves and Kine.

A Ny killing Calves to sell under five weekes
old, lose for every one 6.s. 8.pence, 1.*Fac.* 22.

Any feeding in his own ground fit for milch
Kine, wherein none hath common, above 120.
Sheep more than for his owne provision, must
raise one Calf for every 60. Sheep, or lose 20. s. a
moneth for each Calf, and keep one milch Cow
for every ten Oxen, Runts, &c. so fed, if he feed a-
bove twenty. And for every two milch Kine must
reare one Calf yearely, except it die, upon the like
pain. 2. & 3. P. & M. c. 3. 13. *El. c.* 25. 7. *Fac. c.* 8.
Lam 453.

Offences against this Statute are determinable
at the quarter Sessions.

Captains.

Any Muster-masters taking reward for dis-
charging any from service, lose ten times so
much, or 20.li. 2. *E. 6. c.* 2. *Lam* 482. 483.

Captains, or others, having the charge of men
for war, keeping back part of their pay, lose to
their souldier treble so much as is not paid: or for
gain licenensing any to depart, lose ten times the
gain. 2. *Ed. 6. Ibid.*

Vide plus Travelling.

Castle, *vide* Felony.

Cattell.

Buyer of live Oxen, Runts, Steers, Kine, Calves,
Sheep, Lambs, Kids, and Goats, if he sell them
within five weekes after, loseth the double. 5. *E. 6.*
c. 14. *Lam* 452. *vide* Badgers.

Certificate.

Certificate.

Recognisance and Release of the Peace, both are to be certified at the next Quarter Sessions. 3.H.7.c.1. but no pain by the Stat. to the Justice if he do not. *Lam.* 111. *Dal.* 177. *Cro.* 139. a. m. 11.

One that is bound to the Peace, maketh default at the day of his appearance, the Recognisance with the record of the default of his appearance must be certified into the Exchequer, Kings Bench, or Chancery: So if it be presented that he hath broken the Peace. *Lam.* 589.

Sheriffe must certifie to the Justices at the next Sessions, indictments lawfully found and taken at his turne or law-day. 1.E.4 c.2. the penalty is 40. pound.

Clerk of the Crown must certifie the names of any that have been out-lawed of felony, or Clerks convicted or attainted upon the letter of a Justice of Peace, or lose 40. shil. 34.H.8.c.14.

Transcript of every attainder, outlawry, or conviction had before the Justices of P. must be certified into the Kings Bench by the Clerk of the Peace within 40. daies after the attainder, if it be in Term; if not, within 20. daies after the beginning of the next Terme, on pain of 40. shill. 34.H.8.c.14. Clerk of the Peace must certifie to the Ordinary a transcript of the Clerks convicted or attainted, 34.H.8.c.14. *Quere*, because by 18.El.c.6. no delivery to the Ordinary. *Lam.* 588.

Custos Rotulorum of the County where one is attainted as principall of felony, upon writing of the Justices of the Gaole delivery, or Oyer and Terminer of another County where one is accessory unto the other, must certifie what is done with the principall. 2.E.6.c.24. *Lam.* 588. 589.

Where

Certificate.

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Where the Justices are to receive indictments and no power to proceed upon them, they must certify them into the Kings Bench without *Certiorari*. *Lam.* 589.

Abjuration of a seditious sectarie made in open Quarter Sessions, must be certified at the next Assises unto the Justice of Assise. 35. *El. c. i.* *Lam.* 590.

Presentment that goods and chattels of one attainted of felony be in others hands, it is to be certified in the Kings Bench, or Exchequer. *Lam.* 590.

Recognizance of an Alehouse-keeper must be certified at the next Quarter Sessions after the taking, or the Justice loseth 5. Markes. 5. *E. 6. c. 25.*

Certificates of dockets of Purveyors, *vide* Purveyors.

Certificate of transcripts of Records of the Sessions into the Kings Bench, *vide* Clerks of the Peace.

Certificate of Ryots, *vide* Ryots.

Certificate of *Certiorari*, *vide* *Certiorari*.

Certificate of Examinations, *vide* Examinations.

Vide plus Recognisance.

Certiorari is to remove Indictments or other Records to be fully heard, where the Justices cannot proceed; or be reversed, where they have proceeded erroneously. *Lam.* 591.

A *Certiorari* issueth out of the Chancery, and the Records are removed thither, and sent thither by *Mittimus* to any other Court. *Lam.* 591.

Certiorari to remove matters of the Crowne, need not containe the cause of the removing. *Lam.* 514.

Certiorari into the Chancery hath in *Cancellaria*, into the Kings Bench *nobis mitta is*. *Dal* 416. *Cro.* 132.2.

Certiorari may command either the Record it self, or the tenour of the Record. *Cro.* 131.b. *Lam.* 515. *Dal.* 416.

Certiorari is to bee directed to the Justices. *Lam.* 515.

Justices of Peace cught upon Certiorari to remove the Record, though the party that brought the Certiorari sueth not after to have it removed. *Dal.* 416. *Cro.* 132.b. & 133.a. *Lam.* 516.

An Indictment may be removed upon a Certiorari bearing date before the Indictment was taken. *Dal.* 417. *Cro.* 132.b. 164.b. 167.b. *Lam.* 510.

A certificate of a Certiorari ought not to omit that which did authorize the Just. to make the record, neither ought they to certifie more than the Certiorari warranteth them. *Lam.* 516.

If the Certiorari vary from the Record, the Justices need not to certifie. *Cro.* 132.b. *Dal.* 416.

A Certiorari is to send up the Indictment of *A.* in which others are joyntly indicted, the Justices need not make certificate of any but of *A.* only. *Cro.* 132.a. *Lam.* 517. *Dal.* 416.

A Justice may without Certiorari send into the Kings Bench a Recognizance of the Peace, an Indictment found before him, or a force recorded before him. *Dal.* 416. *Cro.* 132.b. 133.b. but not without Certiorari, if he be put out. *Ibid.*

No bills of Indictment, ryot, forcible entrie, assault, or battery found at the quarter Sessions, shall be removed by Certiorari, unlesse it be delivered in open quarter Sessions, and the Indicted bound in ten pound to the prosecutor, with such sureties as the Justices shall allow, to pay within one moneth after the conviction of the indicted, to the prosecutor such costs and damages as the said Justices shall allow, otherwise the Justices to proceed to tryall. 21. *Jac.* c. 8. *Dal.* 219. 220.

Challenge.

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Vide plus, Certificate and Justices of Peace.

Challenge.

One indicted of felony, may challenge as many as he will, shewing cause: but without cause he may not challenge above twenty. 22.H.8.c.14.
Lam. 554. 28.H.8.c.1.

What shall be a good challenge of a Furor.

That he was an indictor of him. *Lam. 554.*

That he hath no lands to cleere yeerely value of 40.shil. *Lam. 554.*

In Cities and Boroughs, that he hath no goods, moveables worth. 40.pound. *Lam. ibid.*

That he is not *Probus & Legalis*, as, if he be attainted of felony, forgery, perjury, &c. *Lam. ibid.*

Champerty.

Champerty is when one for hope of having part of the thing in variance, moveth, or causeth the suit to be moved at his own cost, and for it he is to be fined. 33.E.c.1. *Lam. 441.*

Chance-medly, *vide* Homicide.

Chastisement, *vide* Correction.

Church and Church-yard.

Maliciously to strike with a weapon in the Church or Church-yard, or to draw a weapon to that end, is losse of one of his eares, or having no eares, to be marked on his cheek with the letter F. 5.Ed.6.4. *Lam. 419.*

To keep Faire or Market in the Church-yard. *Ibid. Stat. Wint 13.Ed.1.c.6. Lam. 419.*

42 Church and Church-yard.

Conviction of any upon the Stat. 5. Ed. 6. c. 4. may be by the Justices of Peace at their Quarter Sessions, by verdict, testimony of two, or by confession. 5. Ed. 6. c. 4.

Execution of the forfeiture upon the Stat. of striking in Church-yards, to be awarded by the Just. of P. before whom the conviction. 5. E. 6. c. 4.

Church-wardens.

Church-wardens and Constables, or one of them, or where none be, the Constable of the Hundred must once every yeere present at the Quarter Sessions the monethly absence, from Church of Popish Recusants, and the names of every of their children of nine yeeres old and above, abiding with their parents, and as neare as they can the age of their children, and the names of such Recusants servants. 3. Jac. 6. c. 4. Lam. 437. penalty 20. shil. *Vide* Recusants.

Church-wardens are to gather for the prisoners. *Vide* Prisoners.

Church-wardens and Overseers of the poore are yeerely to make accompt to two Justices, whereof one ought to be of the Quorum, *viz.*

1 Of all summes received by them rated or not received.

2 Of such stock as they or any of their poore have in their hands. 43. El. c. 2.

3 What Apprentices they have put out.

4 What poore they have set to work or relieved.

5 What poore they have suffered to wander and beg.

6 If they have monethly met to take order for the poore.

7 If they have assessed the inhabitants and occupiers of lands, &c. in their Parish, and such as are of ability with indifferency.

8 If

8 If they have endeavoured to levie and gather such assessments. *Dal. 96.* Defaults in any the premisses is 20. shil. *ibid.*

“Two such Justices may make their warrants both to the present and subsequent Church-wardens and Overseers to levy all summes and arrerages of every one that shall refuse to contribute according to the assessment. And in default of distresse commit them to the Gaole till payment be made. *Dal. 95.*”

Church-wardens and Overseers refusing to make a true accompt to the Justices of all such summes of money, or denying to pay the arrerages, to be committed to the Gaole without baile till accompt made, and the arrerages paid to the new Overseers. *Dal. 96.*

Church-wardens and Constables yeerely upon Tuesday or Wednesday in Easter week, must call together the Parishoners.

And first choose Surveyors for the highways. *Dal. 67. 3. P. & M. c. 8.*

2 Appoint six daies for that purpose, to be before Midsummer next following. *Dal. ibid.*

3 Give notice of the said six daies openly in the Church the Sunday after Easter. *Dal. ibid.*

Clerk of the Peace.

Clerk of the Peace must be present at the Sessions, to reade indictments, and inroll the acts of the Sessions, as also to draw Proces. *Lam. 393.*

Clerk of the Peace must record Proclamations for the rates of servants wages, and inroll the discharge of apprentices. *5. El. c. 4. ibid.*

He must keep the counterpain of the Indenture of armour. *4. & 5. P. & M. c. 2.* Repealed by *1. Jac. 25. circa finem.*

And the bookes of licences given to Badgers

and Loaders of corne. 5. *El c. 12. Lam. 393.*

And of those that are licensed to shoot in guns.
2. *Ed. 6. c. 14.*

He must certifie into the Kings Bench transcripts of indictments, outlawries, attainders, and convictions had before the Justices of Peace within the time limited, under the pain of 40. shil. 34. *H. 8. c. 14. Lam. 588. & 593.*

Recognisance of the Peace is brought in to the *Custos Rotulorum*, and if the party grieved will not sue it, the Clerk of the Peace may call upon it for the King. *Lam. 394. 2. H. 7. c. 1.*

The office of the Clerk of the Peace is in the gift of the *Custos Rotulorum*. 37. *H. 8. c. 1. Lam. 394.*

What Records the Clerk of the Peace is bound to certifie.

Vide Certificate.

The Clerk of the Peace his fees.

Vide Fees.

He must record presentments for not coming to Church, and the certificate of not taking the oath of Allegiance. 3. *Jac. c. 4. Lam. 393.*

“ Clerk of the Peace is Clerk to the Justices,
“ as the Stat. 12. R. 2. c. 10. nameth him, and not
“ Clerk to the *Custos Rotulorum* only. *Lam. 394.*

“ Clerk of the Peace may exercise his place by
“ himself, or by his depury, sufficiently instruct-
“ ed in the Law, and admitted by the *Custos Ro-*
“ *tulorum*. *Lam. ibid.*

Clerk of a Justice his fees. *vide Fees.*

Clerk of the Crown, what Records hee ought to certifie, *vide Certificate.*

Clerk of the Market.

Clerk of the Market taking mony to dispence with faults, riding with more than six horses, tarrying

Clerk of the Market. 45

carrying longer than is necessary, loseth for the first offence 100. shillings, for the second 10. pound, for the third 20. pound. 13.R.2.c.4. Clerk of the Market may take no money for any Bills. Hee ought to seale no Bushell but once. After the first sealing to take any thing is extortion. Dal.150.

Clergy and Sanctuary.

One Justice of Peace may take out of the Sanctuary him that is abjured thither, being indicted of any offence punishable by death, done after hee is become a Sanctuary man, and may commit him to the Gaole in the County where the indictment is found, till he bee tried. 22.H.8.cap.14.

In what offences Clergie is not allowable.

Breaking a house by day, and taking away any thing to the value of 5. shillings 39.El.c.15. Lam.564.565.

Conjurers or Witches, their aiders and counsellors. 5.El.c.16. Lam.564. but 1.Fac.c.12 repealeth. 5.El.c.16.

Receivers or aiders of Seminary Priests or Jesuits. 27.El.c.2. Lam.563.

Conspiring to burn, take, or raze any Castle or Bulwark of the Kings. 14.El.c.1.

Rape or Ravishment, } 18.El.c.6. Lam.564.
Burglarie, }

Carnally abusing a woman within the age of ten yeares. Lam.564. 18.El.c.6.

Principall or accessary before the fact of taking away of a maid, widdow or wife, that hath lands

46 Clergy and Sanctuary.

lands or substance, &c. 3. H. 7. c. 2. & 39. *El. c. 9.*
Lam. ibid.

Buggerie. 5. *El. c. 17.* *Lam. 564.*

Murderer. *Lam. ibid.*

Poysoner of malice prepensed. *Lam. ibid.*

Robbing in day, or nigh a high-way. *Lam. ibid.*

Horse-stealer. *Lam. ibid.*

Church-robber. *Lam. ibid.*

Robbing of a house, any being in it. *Lam. 564.*

Robbing of booth or tent, any being in it. *Lam. ibid.*

Commander of pettie-treason. *Lam. ibid.*

Commander of wilfull murder. *Lam. ibid.*

So of robbery in any dwelling house, in or near any high-way. *Lam. 565.*

Stabbing one who hath no weapon drawn; nor stroke first, if he die thereof within six moneths.

1. *Fac. c. 8.* *Lam. 565.*

"To burn any dwelling house, or any part thereof. *Lam. ibid.*

To burn any barn having any corne in it. *Lam. 565.*

Reporting false rumours against the King, devising or writing seditious or slanderous matter against the King. 23. *El. c. 2.*

Souldiers departing without licence of their Captain. *Lam. 565.*

Souldiers or Marriners, which wander begging. 39. *El. c. 17.*

Or exceed the time of their licence. *ibid.*

Or forge, or use forged licence, knowing it. *ibid.*

The second conviction for forging false deeds. 5. *El. c. 14.* *Lam. 566.*

Privily to take away goods or money above 12. pence from the person of another. 8. *Eliz. c. 17.* 4. *Lam. 566.*

Calling himse'fe an Egyptian, or keeping them.

them company, contrary to the Statutes. 1. & 2. P. & M. c. 4. 5. El. c. 20. Lam. 566.

A confined Recusant refuseth to abjure the Realm, or will not go, or returneth without licence. 35. El. c. 1. 2.

“To acknowledge any fine, recovery, deed in-
“rolled, statute, recognisance, baile, or judge-
“ment, in the name of another not privy there-
“unto. 21. Jac. c. 26. Dal. 276.

To what persons Clergie is grantable.

To a bastard.

To bigamus.

To whom not grantable.

Women. *vide* Women.

One that hath had it formerly, except he bee within holy orders. 1. E. 6. c. 12. Lam. 563.

In what cases Clergy is allowable.

Clergie shall be allowed in all cases, saving such as are mentioned. 1. E. 6. c. 12. or specially since that time taken away. Cro. 118. nu. 33.

Clergie shall be allowed but once. 4. H. 7. c. 13. Lam. 563. except he be within orders. Cro. 118. a. nu. 36.

A Woman convicted of felonie above 12. pence, and under 10. shillings, wherein a man may have his Clergie, shall be burnt in the hand with T. and whipped. 21. Jac. c. 6.

Upon an attainder by outlawrie, Parliament, standing mute, challenging peremptorily above twenty, where the Statute taketh it away upon conviction by verdict. *vide* Lam. 567. if Clergie shall be denied.

Justices of Peace may give Clergie to a Felon, if the Ordinary be present; but they cannot fine the

the Ordinary for his absence, but must reprove the prisoner. *Lam. 551. Vide Ordinary.*

If the Indictment doth not directly agree with the words of the Statute that taketh away Clergy, the prisoner may have his Clergie. *Lam. 566.*

After conviction and Clergy allowed, and the party burnt in the hand, he may be indicted of another Felony. *Lam. 559. 18. El. c. 6.*

Where any man hath priviledge of Clergie, as a clerk convict, and also in all cases of felonie wherein the benefit of Clergy is restrained, excepted, or taken away by Statute (wilfull murder & poysoning of malice prepensed, excepted) any Lord of the Parliament, or Peere of the Realm sitting in Parliament, shall, upon his request and prayer, alleading that he is a Lord or Peere of the Realm, though he cannot read, without burning in the hand, losse of inheritance, or corruption of blood, be adjudged for the first time only as a clerk convict. *1. Ed. 6. c. 12.* but in all other cases, wherein Clergy is taken away by any Statute since *1. Ed. 6.* he is in the same degree as a common person. *P. R. 213. vide Ordinary.*

Cloth.

Every Justice beyond Trent hath some power in searching out the deceit of straining or stretching those countrey clothes. *39. El. c. 20.*

Any Justice of Peace next unto any Town corporate or City beyond Trent, is to joyne with the City or Town in appointing Overseers for cloth. *ib. d.*

Two Justices of Peace must appoint yeerely Overseers of cloth sold in Townes not being corporate, and to swear them to see execution of that part of the Stat. which is yet in force. *3. E. 6. c. 2. Lam. 359. Dal. 42.*

One commanded by two Justices of the Peace to appeare to be made an Overseer of keeping the Stat. of clothing, and without reasonable excuse refusing, shall forfeit 40. shillings, one halfe to the two Justices. *Lam. ibid.*

Two Justices of Peace may dispose the money rising of deceitfull cloth stretched. 39. *El. c. 20.*

Woollen cloth presented by a retailer thereof to two of the next Justices of Peace, as defective against this Statute, and the Stat. 4. & 5. P. & M. c. 5. shall cause the same to be cut into three equall parts, whereof one part to the King, one part to the presenter, and the third part to the Justices themselves. 5. *E. 6. c. 6. Lam. 359.*

Justices of Peace faulty in executing the Stat. against the deceitfull stretching of Northren cloth, lose 5. pound. 39. *El. c. 20.*

Clothier must set his seale of lead to the cloth, to declare the length, to be tryed by water, or be fined. 3. *Ed. 6. c. 2. Lam. 469.*

Cloth is not to be stretched above a yard and a halfe in length, and halfe a quarter in breadth, nor to shrink more in wetting, on pain of 40. shillings. *ibid*

Brownes, Blews, Pewks, Tawnies, and Violets, must be perfectly boyled, grained, or maddered upon the woad, and shot with good cork or orchall, otherwise the dyer loseth 20. shillings for every offence. 3. *Ed. 6. c. 2. Lam. 469.*

Wooll for Russlets, Marbles, Grayes, Bayes, or for hats or caps, must be perfectly woaded, boyled, and maddered, or lose 20. shillings every cloth or wooll for a cloth. *ibid.*

Dying with Brazill, thereby to make a false colour, is losse of 20. shillings a time. 3. *Ed. 6. c. 2. Lam. 469.*

Putting

Putting flax, chalk, starch, or other deceivable things upon any Cloth, except Devonshire, and Cornwall straits, loseth 40. shillings a time. *Lam. ibid.*

Selling Cloth by lesse measure than after the true contents by the yard and inch, loseth 6. shill. 8. pence a yard. *ibid.*

Putting to sale cloth pressed to be used in England, Wales, or Ireland, loseth the cloth or value, *ibid.*

Refusing to be searchers of cloth, or neglecting to search once a quarter, loseth as the offenders. *ibid.*

Interrupting the search of cloth, is losse of twentie pound. *ibid.*

Kentish cloth above sixe pound price, must containe betwixt 28. and 30. yards in length being wet, and 7. quarters broad within the lists, and being well dressed, must weigh 76. pound, or lose 20. shillings for want of length and breadth, and so much for wanting of 4. pound of the weight. 5. *Ed. 6. c. 6. Lam. 470. See now. 4. Jac. cap. 2.*

Deceit in linning cloth, whereby it is become worse for good use, is losse of Cloth, fine, and imprisonment for a moneth. 1. *El. c. 12. Lam. 471.*

Offences against the Statute, concerning the stretching of Northern clothes, to be presented by the Overseers at the next Quarter Sessions after the offence, and there to be heard and determined. 39. *El. c. 20.*

Offences of the Justices of Peace in neglecting their duty, by not executing of the Statute of deceitfull stretching of Northern clothes, to be heard and determined by Just. of Assise. 39. *El. cap. 20.*

Commission

Commission of the Peace.

Commission of the Peace is determinable at the Pr. pleasure, either by expresse word, implication, or death, or by the presence of higher power, or by occasion of another office, as to bee made Sheriffe. *Lam. 66. 67. 68. &c.*

“If Just. sit by commission and do not adjourn
“the Sessions, the commission is void. *Brooke
“Commission. 12. Cro. 188. a.*

Commission granted *hac vice tantum*, is determined after once sitting, if they do not adjourne the same. *Lam. 71.*

A new Commission of the Peace *hac vice tantum*, will determine the old. *Lam. 68.*

A commission of the same kinde in the same limits to other commissioners without word of discharge, is a revocation of the former by implication. *Cro. 189. a. Lam. 67. Dal. 11.*

A proper Justice is made within a special liberty, without words of prohibition, the Justices of the Shire may meddle there. *Lam. 68. 69.*

The making of a new commission is no determination of the old, till it be read or proclaimed at some Session, or in a full County, or at the Assises. *Dal. 11. Lam. 69.*

The old commission determining by a new, no processe or suit hanging before the old commissioners, is discontinued thereby. *Dal. 12. Cro. 189. a. Lam. 69.*

Accession of a higher title taketh not away the authority of a Justice of Peace. *Dal. 5. Cro. 188. a. Lam. 70.*

A new commission to heare and determine felonies, determineth the old commission of the Peace, but not concerning the Peace. *Lam. 72. Brooke Commission 8.*

52 Commission of the Peace.

A Justice of Peace, in making justification by vertue of his office, needeth not to shew the commission of the peace, because the keeping thereof belongeth to the *Custos Rotulorum*. *Lam.* 387. 388. *Cro.* 120. b. *nu.* 13.

“By 17. R. 2. c. 10. In every commission of the Peace, two men of law (amongst others) are to be assigned, *viz.* to proceed to the deliverance of felons. *Dal.* 50.

“Two were joynt commissioners, and it is presented that one only sate, and fined the Countrey; and it was held void. But if one sit, and it is recorded that it is done before both, it is good: So of Justices of Peace. *Cro.* 121. a. *nu.* 19. & 189. a. for averment shall not be taken against the act of the Justices or Commissioners. *Cro.* 189. a.

“A Justice cannot be made by writ but by commission, but may be discharged by writ, which is in nature of a *Supersedeas*. *Brooke Commiss.* *nu.* 18.

“If the Justices in Eyre, after Proclamation made, doe come into the Countrey, and sit there by vertue of their authority, then ceaseth the power of the Commissioners of Peace. And so likewise, if the Kings Bench should remove into the County. *Lam.* 71. *vide Cro.* 188. b. & 189. a. *Brooke Commiss.* *nu.* 18. But Lambert maketh a *Quere*, for that Just. of *Nisi prius* doe ordinarily bring a Commission of Oyer and Determiner. *Lam.* 71. and yet no determination of the Commission of peace.

“And *Brooke Commiss.* 8. and *Cro.* 188. b. *Un novel Commission de oier & terminer felonies determine le ancien Com. del P. quant al Oyer, & c. felonies, mes nemy quant al Peace. Et issint vide Commiss. determine in part, & remaine pur le reman.*

Commons

Commons.

Commons in forrests and elsewhere, must bee driven yeerely within 15. dayes after Michaelmas by the owner or officers, on pain of 40. shil. a time. 32. H. 8. c. 13. Lam. 483.

Vide plus Horses.

Common Prayer.

If any Minister have refused to use the Common Prayer, or to minister the Sacraments according to the Book of Common prayer, in such order and form as is mentioned in the said Book, or wilfully standing in the same, have used any other form in open Prayer, or in administration of the Sacraments, or spoken any thing in derogation of the said Book, or any part thereof, for the first offence it is losse of his spirituall living for a yeere, and imprisonment for six moneths without baile : for the second, deprivation and imprisonment for a yeare : for the third, deprivation and imprisonment all his life. 1. El. c. 2. 23. El. c. 1. Lam. 417.

Any having in play, song, or rhytme, or by any open word spoken in derogation of the Book of Common prayer, or any thing therein contained, or having caused or maintained any Minister to say any other Common prayer, or minister Sacraments in other manner, or interrupting any Minister to say open Prayer, or administer the Sacraments according to the said Book, he loseth 100. Marks, or six moneths imprisonment without baile for the first offence : and for the second, 400. Marks, or twelve moneths imprisonment : and for the third, all his goods, and imprisonment for his life. *ibid.*

Concealment, *vide* Jurours.

Confession.

Confession.

After a free confession of an indictment, and submission to fine in an action at the parties suit, for the same trespassse, he shall not plead Not guilty: otherwise of a confession *sub modo*, as when he putteth himselfe *sub gratia Regis*. *Lam.* 530.

Quere whether if he once make a fine, he shall not be estopped to plead Not guilty. Also whether the Just. of Peace may drive the party either to an absolute confession, or to his traverse. *ibid*.

The voluntary confession of an offender against the Stat. 1. *Fac. c. 9.* 4. *Fac. c. 5.* before a Justice of Peace is a conviction and after confession his oath is sufficient prooffe against any other offending at the same time. 21. *Fac. c. 7.* *Dal.* 26.

Conjuration.

Conjuration of wicked spirits is felony. 5. *El.* c. 16. *Lam.* 227.

Vide plus Witchcraft. 1. *Fac. c. 12.*

Conservers of the Peace.

Coroners are conservers of the Peace, and may in some cases imprison. *Lam.* 395.

Constables are conservers of the Peace within their limits. *Dal.* 2. *Lam.* 14.

Constables.

Every Constable at the Common-law before the Stat. 3. *H. 7. c. 3.* & 1. & 2. *P. & M. c. 13.* might baile one suspected of felony by obligation, or take surety of the Peace by obligation, or commit him to prison that made an affray, till hee found sureties. *Lam.* 15.

Constables or other Officers may lay no hands on

on two intending to fight, till weapons drawne, or offer of blow. *Lam.* 132.

Constable hurt in parting an affray, may have an action against the affrayer; so may any other officer: but the affrayer can have none against them. *Lam.* 132. 133.

Constable or Officer presented at the Sessions for not endeavouring to part an affray, being present, shall deeply be fined. *Lam.* 133.

Not so if he be told of it being absent. *Dal.* 33. *at quare contra.* *Cro.* 146.b.

Two fighting in a house, the doores being shut, the Officers may break open the doores to see the peace kept. *Lam.* 133.

Constable taking an affrayer must imprison him in the stocks, not in his house; and that till he may provide to carry him to the Gaole, *La. ib.* or to a Justice of Peace. *Lam.* 133. *Dal.* 33. 35.

Constable or Justice, if need be, may command aid of the Kings people for pacifying an affray. *Lam.* 134.

Constable or Officer may defend himselfe, and apprehend and imprison the party that shall make an affray upon him. *Lam. ibid.* *Dal.* 35. *Cro.* 147. a.

One Justice of Peace may command that two Constables be chosen in each Hundred. *Lam.* 186.

Vide plus Affray, Arrest, Rogues.

High-constables at their petty Sessions, for an affray made in disturbance of the Court, may imprison the offenders, *Dal.* 3. *Croke* 11. 43. 44.

Choosing of High-constables useth to be at the Quarter Sessions; if out of Sessions, by the major part of the Justices of that division where they dwell, and use to be sworn at the Sessions, or by warrant from the Sessions. *Dal.* 46.

Vide plus Prison.

Conventicles.

Conventicles.

Those are sometimes called Conventicles, wherein many doe impart with others their meaning to kill a man, or to take anothers part in all things. *Lam.* 173.

Champerty also, maintenance, conspiracies, confederacies, and giving of liveries, other then to meniall servants and officers, be contained under the word Conventicles. *Lam. ibid.*

Conies, *vide* Hunting.

Corne.

Certificate of one Justice of peace, joyned with the Customer of the place of unlading and selling of corne, graine, or cattell carryed by water from one place to another of this Realme, unto the Customer and Controller of the place where the same was imbarked, is sufficient upon the Statute of forestalling. *5. Ed. 6. c. 14. 13. El. c. 25.*

One having sufficient corne, buying seed, without bringing so much as he buyeth, to sell the same day as the Market goeth, loseth double. *5. Ed. 6. c. 14. Lam. 451.*

Vide plus Transportation.

Cutter and carriers away of Corne.

vide Hedge-breakers.

Coroners.

Coroners ought to certifie their inquisitions at the generall Gaole delivery, and not at the Sessions. *1. & 2. P. & M. 13. Lam. 395.*

Coroners being parties to the exigents, and Judges of the outlawry, ought to be present at the Sessions. *ibid.*

Coroners are conservers of the Peace, and may in some cases commit men to prison. *ibid.*

Coroners

Coroners.

37

Coroners may be convicted of offence against the Statute of 1. H. 8. c. 7. by examination of witnesses and touching extortion or not executing their offices, before a Justice of peace. *Cr. 130. b. Lam. 434.*

Coroners fees, *vide* Fees.

Cottages.

Any erecting, or converting any dwelling to be used as a cottage for dwelling, unlesse he lay foure acres of his own free-hold inheritance lying neere to the said cottage, to be continually manured therewithall so long as that cottage shall be inhabited, forfeiteth ten pounds, except in a City, corporate, or market Town, or ancient Borough, or being the dwelling house of workers in minerals, coal-mines, quarries of stone or slate, makers of brick, tile, lime, or coale, not being above a mile from the works, and only used for the habitation of such workmen, or for sailers, or men of manuell occupation, for the making, furnishing, or victualling of ships, and being within a mile of the sea at the side of some navigable river; or a cottage for the keeper of forrests, chase, warren, or park; or cottage for a common herdsman or shepheard of any towne, or wherein any poore, lame, sick, aged, or impotent person shall dwell; or hath been decreed to continue for a dwelling by the Justices of Assise, or of the peace in open Assises or Quarter Sessions. 31. *Elc. 7. 39. Elc. 3. 43. Elc. 2. Lan 476. 35. Elc. 6.* for continuing the cottage 40. shil. a moneth.

None to maintain or uphold any cottage, not having foure acres to it, except as before. *ibid.*

Owner or occupier of a cottage must not suffer more households then one to dwell in a cottage.

31. *El.*

31.*El.c.7.* except it be by order of the Justices at the Quarter Sessions, with leave of the Lord of the waste, at the charge of the Parish, Hundred, or County. 39.*El.c.3.* 43.*El.c.2.* *Lam.611.* Offences against the Stat. of cottages and inmates, are to be heard and determined at the Quarter Sessions. 31.*El.c.7.* *Lam.614.* and a Decree may be made at the Quarter Sessions for continuance of a cottage that hath not foure acres of land. *ibid.*

“ A Decree may be made at the Quarter Sessions for the continuance of a cottage that hath
 “ not foure acres of land. And the Just. may en-
 “ quire, heare and determine of cottages and in-
 “ mates against the Stat. of 31.*El.c.7.* *Lam.614.*

County.

A Justice of Peace in one County, pursuing a felon into another County where he is taken, he shall be committed to the Gaole of the County where he was taken. *Dal.297.298.*

Cozeners and Cozenage.

Any falsly and deceitfully getting into his possession money or goods of other mens, by colour of false privy tokens, or counterfeit letters, and convicted thereof at the Quarter Sessions by examination of witnesses, shall suffer any corporall punishment except death. 33.*H.8.c.1.* *Cro.83.a.130.b.* *Dal.48.* *Lam.442.535.569.609.*

Two Justices of Peace, one being of the Quorum, may bind over to the next Sessions any such suspected person, or may imprison or baile them, untill the next generall Sessions. *Dal.48.*

One Justice of Peace (as it seemeth) may binde Cheaters to their good behaviour, so to the Assises or Sessions, or send them to the house of Correction. *Dal.48.*

Crosses. *vide Agnus Dei.*

Crosse-bows and Hand-guns.

Every person may attach an offender against the Stat. 33. H. 8. c. 6. and carry him to the next Justice of Peace in the same County. *Dal. 65.*

The Justice upon due consideration may send the offender to the Gaole, till he have paid the penaltie of the Stat. of 33. H. 8. c. 6. *sc. 10. li.*

The particulars of the said Statute.

1 None under an 100. pounds *per annum* may shoot in, or keep gun, dag, pistoll, crosse-bow, or stone-bow.

2 No person may shoot in, carry, keep, use, or have any gun under three quarters of a yard in length: if it be shorter, every one having an 100. pounds *per annum* may seize the gun, and must breake it, or lose 40. shillings, if he breake it not within twentie daies. *Lam. 296. 480.* but may keep the crosse-bow or stone-bow. *Dal. 65.*

3 No person not having an 100. pounds *per annum*, may carrie in his journey any gun charged, or bow bent, but only in time and service of war, or going to the musters.

4 None may shoot in a gun neere to a market Town, but in defence of his house or person, or at a Butt.

5 The master may not command the servant to shoot, except at a Butt or Bank of earth, or in war.

Exceptions out of the Statute.

1 Shooting at a Butt or Bank of earth by serving men, whose masters are inabled by statute.

2 Inhabitants of market Townes.

3 Dwellers alone, or neere the Sea-side.

4 Gun-makers or Gun-sellers.

5 Those

60 Crosse-bows and Hand-guns.

5 Those that have placards may shoot according to their placards. *Dal. 65. 66.*

Any under the value of 100. pounds *per annum*, licensed to shoot in Crosse-bow or Hand-gun, is to present his name to the next Justice, by him to be presented and recorded at the next Quarter Sessions, or else the Justice to lose 20. shil. *2. Ed. 6. c. 14. Lam. 301. Quare* if this be now in use.

Any licensed at Quarter Sessions to shoot in Hand-gun or birding-piece for Hawkes meat, is to shoot only at fowle not prohibited, and to bee bound in 20. li. *1. Fac. c. 27.*

Any two Justices of Peace may commit to the Gaole for three moneths any that shoot with gun or bow at any Partridge, Pheasant, house-Dove, Mallard, or at such fowle, or at any Hare. *1. Fac. cap. 27.*

“ If any person not having lands, &c. of the
“ yeerely value of 40. li. or not worth in goods
“ 200. li. shall use any gun, bow, or crosse-bow, to
“ kill any Deere or Conies (except such person
“ shall have any ground inclosed, used for the
“ keeping of any Deere or Conies, &c. or be Kee-
“ pers or Warrenners) any person having in lands
“ 100. li. by yeere in fee or for life, may take from
“ such offender such Guns, Bowes, or Crosse-
“ bowes, and keep them to his own use. *3. Fac.*
“ *c. 13. Dal. 65.*

Curriers, *vide* Leather.

Customer, *vide* Corne.

Custos Rotulorum.

Custos Rotulorum hath the custody of the Records and of the Commission, and ought to see that they be brought to the Sessions. *Lam. 387.*

Custos Rotulorum is alwayes a Justice of Quorum. *Lam. 387.*

Custos

Custos Rotulorum.

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Custos Rotulorum alone cannot summon a Sessions, seeing that he hath no more authority in that behalf then any of his fellows hath. *Lam.* 382.

Cutpurse.

Taking of the goods of another to the value of 12. d. from his person into his own possession, without assault or feare, is felony without Clergy. 8. *El.c.4.* *Lam.* 270. *Dal.* 262. & *Lam.* 422. 566.

But it will not amount to felonie unto death, unlesse the thing taken be of the value of twelve pence. *Lam.* 270. *Dal.* *Quere.*

The thiefe must have an actuall possession of the thing severed from the person of the owner. *Lam.* 271. *Dal.* 262. *Cro.* 35. a. iii. 17.

Cutting out of tongues.

Cutting out of tongues, and putting out of eyes, is felony, if it be done of set purpose. 5. *H.4.c.5.* *Lam.* 420.

Cutting of a Pond head.

Destroying of the head or damme of any pond, moat, stew, or severall pit wherein fishes are put by the owner thereof, or have wrongfully fished in any of the same, to the intent to take away the fish against the owners will. 5. *El.c.21.* *Lam.* 446. See 3. *Fac.c.13.* he is to suffer imprisonment, and to bee bound to his good behaviour for seven yeares.

Deere and Deere-hayes.

Justices of Peace may not receive an indictment for killing a Hart proclaimed, for the jurisdiction of it belongeth to the Justices of the forrest. 21. *H.7.c.30.* *Lam.* 505.

62 Deere and Deere-hayes.

One convicted of unlawfull taking or killing of Deere, must pay treble damages to the party, three moneths imprisonment, and after to remaine there till he put in sureties for the good behaviour for seven yeares. 5. *El. c. 21. 3. Fac. c. 13. Lam. 57 1.*

To sell, or buy to sell any Deere, Hare, Partridge, or Pheasant, except house Partridge or Pheasant, or brought from beyond the seas, loseth for every Deere 40. shil. every Hare or Partridge 10. shil. and every Pheasant 20. shillings. 1. *Fac. c. 27.*

Vide pluz Hunting, and Buckstalls.

Demurrer.

If one indicted demurreth upon the evidences, the Justices ought to record it. *Lam. 539.*

Deputy.

A Judge cannot make a Deputy. *Lam. 64.*

Divine Service.

Any above the age of sixteen yeares, that repairerth not faithfully and diligently to his Parish Church or Chappell accustomed, or (upon some reasonable lett) to some usuall place where Common Prayer is to be used upon every Sunday and other Holy-dayes, and hath not there orderly and soberly abiden during the time of such Common Prayer, Preaching, or other service of God, loseth 12. pence for every offence, to be levied by the Church-wardens to the use of the poore of the said Parish, and to be punished by the censures of the Church. 1. *El. c. 2.*

It is lawfull for one Justice of Peace in the limit, division, or liberty where the offender dwelleth, in not comming to Church, according to 1. *El. c. 2.* upon prooffe of default, by confession of the

the party or oath of witnesse, to call the party before him ; and, for want of sufficient excuse and prooffe thereof to the satisfaction of the said Justice, the said Just. may give his warrant to the Church-warden of the said Parish under his hand and seale to levy 12. d. for every default by distresse, and in default thereof to commit the offender to prison till payment made. 3. *Fac. c. 4.*

Vide plus Recusants, and Sunday.

Dogges, *vide* Hunting, and Partridges.

Drovers, *vide* Badgers.

Dyer, *vide* Cloth.

Drunkennesse.

Any Justice of Peace, upon his own view, confession of the party, or prooffe of one witnesse upon oath, hath power to convince any person of drunkennesse. 21. *Ja. 7.*

Any, within six moneths after the offence committed, lawfully convicted of drunkennesse, loseth 5. shillings, to be paid after conviction to the Church-wardens of the Parish where the offence shall be committed; and refusing and neglecting to pay the same, to be, by warrant from the Just. convicting, levyed on his goods; if he be unable, to be set into the stocks six houres, and upon conviction of the second offence to be bound with sureties in ten pound to his good behaviour. 4. *Fac. c. 5.* and for want of sureties to be sent to the Gaole.

If the officer charged is negligent in levying or in correcting, he loseth 10. shillings, to be levyed and disposed as the penalty it self. 4. *Fac. c. 5.*

Church-wardens to be accountable to the use of the poore for the penalties by them received upon the Stat. of drunkennesse. *ibid.*

Constables, Church-wardens, and Tithing-men, in their oaths for their office are to sweare to present offences against the statute of drunkennesse 4. Fac. 5.

Offences against the statute of drunkennesse to be inquired after, and presented before the Justices of Assise, or Justices of Peace at their Sessions, and proceeded upon ordinary indictment. *Ibid.*

Offenders against the statute of drunkennesse not to be twice punished for the same offence. *Ib. d.*

Ecclesiasticall causes and persons.

Ecclesiasticall persons are subject to arrest for the Peace, unlesse they be attendant on divine service. *Lam. 93. Dal. 166.*

Vide plus Treason.

Egges of wilde-fowle.

Egges of any wilde-fowle usually eaten, taken from the place where they were layed, or destroyed betwixt the first of March and the last of June, one yeares imprisonment, and lose after a rate "for each egge, *viz.* Egges of Crane or Bustard, "xx.d. Butter, Heron or Shovelack viii. d. Mallard, Teale, and other wilde-fowle, one penny, "25. H. 8. c. 11. 3 E. 6. c. 7. *Lam. 453.*

To take away the egges of any hawke out of the woods or ground of any other person, three moneths imprisonment, and bound to his good behaviour for seven yeares. 5 El. c. 21. *Lam. 446.*

To take or cause to be taken upon his own or other mens grounds, the egges of any Falcon, Goshawk, Lanner, or Swan, one yeare and a daies imprisonment and fine. 11. H. 7 c. 17. *Lam. ibid.*

Taker

Egges of wilde-fowle. 65

Taker or willing destroyer of eggs of Partridge, Pheasant, or Swan, upon conviction by confession, or oath of two witnesses before two Justices of P. where the offence or apprehension is, to be imprisoned three months, unless he pay to the Churchwardens of the Parish in one of the places to the use of the poore 20. shil. 1. fac. c. 27.

Vide plus Partridges, Pheasants, and Fowlers.

Egyptians.

One Just. of Peace may within one moneth after the arrivall seize all the goods of any outlandish persons, calling themselves Egyptians, that shall come into the Realme, or company with them, or disguise themselves like them, and keep to his own use the one moitie, accounting in the Exchequer for the other, restoring to them again their goods, that prove by two witnesses that they were craftily or feloniously stoln from them, upon pain of forfeiture of double, the value to the prover. 22. H. 8. c. 10. Dal. 49. La. 195. 228. 371. 427.

After the moneth it is felony, and then they shall have the whole. 1. & 2. P. & M. 4. *Quare*, whether the Stat. 22. H. 8. be still in force, or altered by the Stat. of 1. & 2. P. & M. c. 4.

Embezeling of Records, *vide* Records.

Embracer, *vide* Maintainer.

Enditements.

"Enditement is the verdict of Jurours that bee charged to enquire of the offence that is presented to them. Lam. 486.

All enditements ought to contain certainty, and therefore five principall things be requisite in presentments. Lam. 487.

1. The name, surname, and addition of the party endited.

2. The yeare, the day, and place in which the offence was done.

3. The name of the person to whom the offence was done.

4. The name and value of the thing, in which the offence was committed.

5. The manner of the fact, and the nature of the offence; as the manner of the treason, murder, felony, or trespassse. *Lam. 487.*

Enditement of the accessory to felony, must containe the name of the principall. *Lam. 488.*

Misnamer in an Enditement shall not be made good by an *alias dictus*. *Lam. 490.*

Where the name of the party offended cannot be knowne, it may be *cujusdam ignoti*, because of the Kings advantage therby by forfeiture. *La. 494.*

Any certainty whereby the day and yeare may be known, is sufficient. *Lam. 491.*

An offence done before midnight, must be supposed the day before; if after, then the day after. *Lam. 492.*

One striketh one day, whereon he languisheth, and dyeth on another; the Enditement must suppose the last day, on which he dyed. *Lam. 491.*

Enditement supposing the fact done a day not come, is not good. *Lam. 492.*

Enditement or presentment for an omission, as *A.* hath not scoured such a sewer, needs not to set down day nor yeare. *Lam. 492.*

Enditement supposing an offence done at two severall times, not good. *Lam. 492.*

Certainty of the place.

If no place be named where the offence was done, or a place be named, whereas in truth there is no such place, the Enditement is void. *9.H. 5. c. 1. 18.H. 6. c. 12. Lam. 493.*

If

If the stroke or poisoning be in one county, and the death in another county, the Enditement in the county where the death is shall be good. 2.& 3.Ed.6.c.24. Lam.493.

Certainty of the person to whom the offence is done. Lam.494.

The goods of a Parson of a Church, *Bona Rectoris.* Lam.468.

The goods of the Church, *Bona parochianorum in custodia Gardianorum.* ibid.

The goods of Maior and Comminalty, and the Maior dieth before the Enditement, *Bona Communitatis.* *Quere,* because they have no such name of corporation.

Goods taken in a mans life time, and he maketh executor and dieth, *Bona Testatoris.*

Goods taken after his death, *Testatoris in custodia Executorum.*

Goods hanging over a Tombe, *Executoris.* A Grave-stone, *Bona Ecclesie.*

My goods are taken by a trespassor, and taken from him again, the Enditement shall be bona of him that had the last possession. Lam.496.

Of the owner in the keeping of the baile, where they were taken from the Bailly. Lam 496.

Bona capelle in custodia, or *bona domus,* or *Ecclesie tempore vacationis,* is good. Lam. ibid.

The name of the thing must be comprised. Lam. ibid.

Bona & catalla in trespassse or felonie is not good.

If dead things, it may be *bona & catalla,* expressing the names thereof in certainty.

If living things, it shall not say, *bona & catalla,* but *equum, bovem, ovem,* &c. ibid.

The value is to be declared in felony to make it appeare petty larceny ; in trespasse to aggravate the fault.

Enditement of things *fera natura*, as Deere, Hares, Partridges, or Pheasants, is not good, unlesse they be taken in a Parke or a Warren that be liberties. *Lam.* 469. 497.

Charters, their value cannot be esteemed. *ibid.*

It must be said, *pretii*, of living things. *Lam.* 497
So of dead things in the singular number. *ibid.*

So of things that goe by weight and measure. *Lam.* 497.

So of coin not currant. *ibid.*

It must be said *ad valentiam*, of dead things in the plurall number, not going by weight and measure. *Lam.* 497.

Coin counterfeited. *ibid.*

Where the number ought to be expressed, as of the taking of Doves in a Dove-house, or young Hawks in a wood, there it must be *pretii* or *ad valentiam*. *Lam.* 497.

Coin currant carrieth his value with it. *ibid.*

The very manner of the fact, and the nature of the offence ought to be mentioned. *Lam.* 498.

Nature of the offence.

Treason must have *Proditorie*.

Murder *Murtravit*, which implyeth *ex malitia practogitata*. *Lam.* 500. *Cro.* 101.a. 103.b.

Burglary, *Burglariter*.

Felony, *felonice*, *ibid.* so petty larceny, *felonice*. In rape, *felonice ra vit*. *Lam.* 501.

Furatus seemeth good without *felonice*.

In felony, *cepit* alone, or *abduxit*, or *assoravit* is not good. *Lam.* 501. but *cepit & abduxit*.

In trespasse or felony, the words *contra pacem* must be used. *Lam.* 502.

In forcible entrie, *vi & armis* be needlesse. *ibid.*

Upon a Statute, *contra formam statuti in hujusmodi casu editi & provis.* *ibid.*

Where many Statutes concern one offence. *contra formam diversorum statutorum.*

Where after an acquittall one shall bee endited for the same felony.

Where the first Enditement was void for insufficiency of matter of felony. *Lam. 556.*

Triall in a wrong County. *ibid.*

Misprision of the party that should bring the action.

Where the first Enditement was as principall, the second Enditement as accessory to the same felony after the fact. *Lam. 557.*

Where he shall not be againe Endited.

Where the Enditement was good.

Though it were by another name, if hee bee known by both. *Lam. 555.*

Though it suppose the same felony done in another yeare. *Lam. 556.*

Though the Proces was erroneous. *ibid.*

Enditement at the Sheriffes Turn lawfully taken, must be taken by the Justices, and by them received. *1. E. 4. c. 2. Lam. 504.*

No Enditement can be taken, nor enquiry made, but before two Justices, one to be of the Quorum. *Lam. 48.*

Enditement upon penall Statute, whereof the King is only to reap the forfeiture, must be within two years after the offence.

And where a common person is, it must bee within one year, except the Stat. doe otherwise direct. *Lam. 487.*

“ Constable presents a fault at the Sessions,
 “ which belongeth to his office, which is allow-
 “ ed by the Inquest, it is good : Otherwise it shall
 “ not serve for an Enditement. *Cr. m. 123. b.*

“ A man may be indicted for the King upon
 “ any penall Statute. *Cr. 101. a. m. 3. 109. a. m. 3.*

“ If there be two villages in one parish, the in-
 “ dicted shall be named of such a village *in paro-*
 “ *chia de A.* and not of the parish only. But if there
 “ be but one village there, the name of the parish
 “ only, or the name of the village only, or of the
 “ village in such a parish is sufficient. And so if
 “ there be divers hamlets. *Cr. 102. a. m. 16.*

“ In an Enditement, *Si sit de pecunia numerata,*
 “ *exprimere debet numerum & genus pecunie : si massa*
 “ *rudis, tum valorem : si formata, tum qualitatem &*
 “ *pretium : si sit pannus, tunc colorem, pretium, & nu-*
 “ *merum ulnarum : si animal, tunc genus, pilum, & pre-*
 “ *tium ; & quod felonice cepit illud contra pacem.* *Cr. 103. a. nu. 35. Stam. 81.*

Enquiry.

Justices of Peace may only enquire, and can proceed no further, as in

1 Certaine offences against the Supremacie.
23. El. c. 1.

2 Treasons, and misprisions of treason, made by the *23. El. c. 1.*

3 Offences against the Statute of false rumors against the King. *23. El. c. 1.*

Enquiry of a forcible entry, *vide* forcible entry.

Enquiry by presentment, *vide* Presentment.

Enquiry by Examination, *vide* Examination.
 Enquiry

Enquiry by information, *vide* Information.

Escapes.

Constable arresteth one that hath hurt another, and voluntarily suffereth him to escape, and hee that was hurt dyeth thereof within a yeare and a day, the Constable shall make a fine to the value of his goods, but it is no felony. *Lam.* 134.

To suffer a felon wilfully to escape, is felony; but a negligent escape is only to be fined. 1.R.3. c.3. *Lam.* 440. *Dal.* 276.

Wilfull escape of one arrested for larceny, manslaughter *per infortunium*, *se defendendo*, is not felony; if the act were not felony at the time of the escape *Lam.* 230. *Dal.* 278. *Cron.* 39.a.nu.5.

Wilfull escape by the gaoler or keeper of a felon, is felony in the gaoler, not in the felon: if the escape bee caused by a stranger, it is felony. *Lam.* 229. *Dal.* 278.

Escape suffered by him that receiveth a known felon, is no felony. *Lam.* 230. *Dal.* *ibid.* but shall bee accessary, for that hee was not arrested. *Cro.* 39.a.nu.4.

Vide plus Prisoners.

A prisoner under arrest only escaping, the escape must first be presented, before he that suffered the escape shall answer it. *Dal.* 278.

A Justice sendeth for a felon out of the gaole and freeeth him without baile; it is felony in the Justice. *Dal.* *ibid.*

A Justice *pro defectu scientia* baileth one notailable, it is but a negligent escape. *Cro.* 39.b. nu.4. *Dal.* 279.

Offender upon his examination before a Justice

Justice confesseth the felony, who letteth him go without commitment or baile; it is a voluntary escape, and so felony in the Justice. *Cro. 39. a. nu. 7. 44. a. Dal. 304.*

A Town not walled must answer the escape of a manslayer in the day time. 1. *Cro. 40. b. nu. 1. Dal. 299.*

The Hundred must answer for a man slain out of the Town, and for insufficiency the County shall be charged. *Dal. ibid.*

Gaoler or other officer suffereth his prisoner to goe abroad for a time, though the prisoner return as he was prescribed, or let his prisoner goe by baile or baston; it is a negligent escape, and fineable. But *Quare*, for prisoners ought to be kept in *salva & arcta custodia*. *Dal. 277. Cro. 39. b. nu. 5.*

“A Constable voluntarily suffereth a thiefe to
“drown himself, this is felony in the Constable.
“But if the thiefe (without the assent of the Con-
“stable) kill, hang, or drown himself, it is a neg-
“ligent escape in the Constable. *Dal. 276.*

Voluntary escape of one arrested or committed for felony, is felony in the Gaoler; if for treason, it is treason; if for trespassse, it is trespassse. *Da. 278.*

Escheators.

Escheators other then those of a City or Borough, that takes upon him the office, not having lands in the Shire of twenty pounds *per annum*, or for life at least, or that hath sold or set to farme the office, or made a deputy for whom he will not answer, and whose name he doth not certifie within 20. dayes into the Exchequer, shall be fined 40. pound. 12. *E. 4. c. 9. Lam. 429.*

Escheator taking for execution of any writ in any County above forty shillings, or forty shillings

Escheator

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lings where the land is not held *in spite*, shall be fined forty pound. 23.H.6.c.17. Lam. 20.

Escheator taking above 15. shillings for finding an office not exceeding five pounds findeth forty pounds. 33.H.8.c.22. Lam. 43 years,

Evesdroppers.

Evesdroppers which shall by night Evesdroppe mens houses, are to be bound to the good behaviour. Dal. 191.

Evidences.

Justice of the Peace must binde over informers for felony to appeare and give evidence against the felon at the next generall Gaole delivery. Dal. 49.

Justice of Peace must binde such as declare any thing materiall to prove the felony, to appeare at the next Gaole delivery, and give evidence. Dal. 303.

"If he which giveth evidence of felony to a Justice of Peace against another, will not bee bound to give evidence at the Assises, he shall be committed, or bound to his good behaviour. Cro. 102.b.m. 26. Dal. 35.

Examination taken by a Justice of Peace in one Countie, may bee certified into another County, and there read, and given in evidence. Dal 303.

Estreats.

Estreats are the extracts of fines, forfeitures, and amerciaments made by the Clerke of the Peace by Indentures, the one delivered to the Sheriffe, the other to the Barons of the Exchequer. Lam. 581.

Estreats

Estreats of the penalty for shooting in guns, are to be recorded and sent into the Exchequer by the Just: that had the examination of the matter. *L. 297.*

Shiffe or his minister that shall levy any of Kings debts, without shewing the party the seals under the Exchequer seale, shall be fined and pay treble damages to the party. *42. E. 3. c. 9.*

7. H. 4. c. 3. Lam. 432.

He that estreateth issues of others then such who were chargeable or charged, loseth five Markes to the King, and as much to the party. *27. El. c. 7. Lam. 432.*

Examination.

Felon brought before a Justice, must be examined before he be committed to prison, and the information of those that bring him must be put in writing within two dayes after, and the party bound to appeare and give evidence at the next Gaole delivery. *2. & 3. P. & M. c. 10. Lam. 212. Dal. 49. 303.*

Before the Statute, the examination of a felon was not warranted at the Common law; for *nemo tenetur prodere seipsum*: but the offender shall not be examined upon oath. *Dal. 307.*

Circumstances observable in examination of a felon. *Lam. 218. Dal. 303. Cro. 98. a.*

In what offences conviction shall bee by examination, *vide* the severall offences.

Conviction cannot be by examination only, but where the Statute giveth it, either by referring it to the discretion of the Justices, or specially limiting it. *Lam. 534.*

Where the Statutes limiteth conviction to bee by

by examination generall, a Justice of P. may examine as well the offenders as witnesses. *La. 535.*

Where the examination of a Justice of Peace is the conviction of the party, it ought to be upon oath: but when it is but to inform the Jury upon that enditement, it needs not. *ibid. Lam. 536.*

Examination of witnesses is to be taken as well against as for the King. *Dal. 308.* but *quare* whether it may be upon oath, which maketh against the King.

Confession of an offender before a Just. of P. is not conviction, except he confesse the same again upon his triall or arraignment. *Dal. 311.*

“Justice of Peace may examine upon oath him
“that informeth against a felon: for the infor-
“mer may die before the Assises, and then the in-
“formation without oath is not of such validity.
“*Dal. 307. Lam. 215. Cro. 194. a. nu. 5.*

Extolling forrain power, *vide* Treason.

Extortion.

Ordinary, Archdeacon, Official, Sheriffe, Escheator, Coroner, Under-Sheriffe, Bailiffe, Gaoler, or other Officer, that by colour of his office taketh more than his fee, or any fee or reward for expedition, or unlawfully exacteth any oath or other undue thing. *Lam. 434. &c.*

Any thing taken *colore officii*, is extortion; but *virtute officii* is allowable. *Cro. 57. b. nu. 2.*

The Sheriffe or Gaoler taking any thing of a Constable for bringing a felon to the Gaole, it is extortion. *4. E. 3. c. 10. Cro. 57. b. nu. 5.*

“The Gaoler takes viii. d. of one in prison to
“let him have liberty, easment, or favour, it is
“extortion. *Cro. 59. a. nu. 26.*

If

If the Ordinary or his minister take any thing to allow a Schoolmaster to teach children. 23. *El. c. 1. Cro. 58. a. nu. 13.*

“If the Ordinarie take ought for letters of administration or probates of Wills, where the goods amount not above 5. li. wherein the writer shall have vi. d. only : or if they be above 5. li. and not 40. li. the Ordinary 2. s. 6. d. and the writer 12. and if above 40. li. the Ordinary 2. s. 6. d. and scribe 2. s. 6. d. or 1. d. for every 10. lines ten inches long, at the writers choice. *Cro. 61. nu. 52. 21. H. 8. c. 6.* it is extortion, and the Ordinary forfeiteth 10. li.

Vide Fees.

The Marshall detaining a Prisoner after he is discharged by the Court, for any thing due to him but his fees. *Cro. ibid.*

The Ordinary citing a lay person to appeare in the Spirituall Court, to depose there as a witnesse. *Cro. 59. b. nu. 35. 36. 37. & 60. nu. 44. 46. 48. & 231. a. & Fitz. 7. P. fo. penul.* it is extortion.

Vide plus Fees.

A man prescribeth to have 4. pence of every one whose beasts are taken in his ground, damage feasant being impounded, and to make amends to him at his will, it is extortion if he take it. *Cro. 58. b. nu. 18.*

To take any thing for a mortuary, contrary to the Statute, 21. H. 8. c. 6. where the goods come not to twenty Nobles besides debts, or for married woman or infant, or one that keeps no house, or wayfaring man, or any that is not resident where he dyed, is extortion. *Cro. 59. a. nu. 27. 21. H. 8. c. 6.*

“To take above 3 s. 4. d. for a mortuary, when the goods amount to 10. markes and under 30. li. or above 6. shil. 8 pence, where the goods are

“are 30.pounds, and under 40.pounds : or above
 “10. shillings, where the goods are above 40.
 “pounds, the debts payed, is extortion. *Cro. 59.a.*
 “*III 28. 21.H.8.c.6.*

Faires and Markers.

HE that keepeth a Faire or Market in a Church
 yard, shall be fined. *Stat. Wint. 13. E. 1.c.6.*
Lan. 419.

False imprisonment, *vide* Arrest.

False tokens, *vide* Cozeners.

Fees.

The Sheriffe shall have upon arrest by Bill,
 Writ, or Warrant, 20. pence, the Bai'iffe that ma-
 keth the arrest, 4. pence ; the Gaoler, if hee bee
 committed, 4. pence ; and for the obligation 4.
 pence, and no more, on pain of 40. pounds. 23.
H.6.c.10. Cro. 58.b.III. 18. 176.b.III. 19.

Bailiffes of liberties are to have like fees as the
 Sheriffes and their ministers have out of liberties,
 and like punishment for extortion. 27. *H.8.c.24.*
Lam. 434. Cro. ibid.

Clerk of the Peace to be fined.

For taking above 12.d. for inrolling a bargain
 and sale of lands not exceeding 40. shillings a
 yeare, or 2.shillings 6. pence If it doe exceed 40.
 shil. a yeare. 27. *H.8.c.16.* and the Justice of Peace
 the like for taking above the said summes in the
 said cases. *Cro. 59.a. Lan. 436.*

For taking above 12.pence for a recognisance
 of one that taketh a rogue into his service for a
 yeare. 14. *E!..c.5. Lam. ibid.*

For taking above 2. shillings for a licence and
 recognisance of a Badger, Drover, Lader, or
 Kidder,

Kidder, and registering the licence of them both. 5.*El.c.* 12. *ibid.*

For taking above 12. pence for a licence and recognisance to shoot Hawks meat. 1.*Fac.c.* 27.

Clerk of a Justice of Peace to be fined for taking above 12. pence for a recognisance of an Ale-house-keeper. 5.*E.6.c.* 25. *Lam.* 436.

Coroner refusing to doe his office of one slaine by misadventure without fees, loseth 40. shil. 1.*H.8.c.* 7. *Lam.* 434.

Coroner taking above 13. shillings 4. pence for doing his office of one slain and murdered, of the goods of the slayer and murderer; if he have none, of the town where he was slain in the day, and was suffered to escape. 3.*H.7.c.* 1. *Lam.* *ibid.*

Maiors to have for sealing.

Bushels and other measures a peny.

Weights, *v. z.* a hundred weight, 1. peny; halfe a hundred, a halfpenny; lesse a farthing; and taking above, they lose 40. shil. 7.*H.7.c.* 3. 11.*H.7.c.* 4. *Lam.* 437.

Parson, Vicar, or Curate taking above foure pence for entring into the Church-booke licence to eat flesh on fish-dayes. 5.*El.c.* 5.

Or above 2. pence for registering a Testimoniall of any servant going from one place to another. 5.*El.c.* 4. *Lam.* 435.

Ordinary or his scribe or register, that hath taken more for the probate of a testament or letters of administration then 6. pence for the scribe for writing the probate of the testament that shall be brought written in parchment, and 6. pence for the administration, where the goods be not above 5 pound; if above 5. pound not above 40. pound, then 2. shil. 6. pence for the Ordinary, and 12. pence for the scribe: if above 40. pound, 2. shil. 6. pence

6.pence for the Ordinary, and 2.shil. 6.pence for the scribe; or 1.peny for every 10.lines 10.inches in length, at the scribes election: and the like for every copy of a testament or inventory, or else after the rate of the lines as before, loſeth 10.li. and ſo much as is taken, to the party. 21. H. 8. cap. 6. Cro.61.a.nu.52. Lam:434.

Escheators fees, *vide* Escheators.

Receiver, Treasurer, or Minister of the King that taketh of any that hath fee or pension of the King, other fee then is given by ancient lawes and statutes, viz. 4. pence for payment of every summe, forfeiteth 6.shillings 8.pence. 33.H.8.c.39. 7.E.6.c.1. Cro.58.a.nu.9.

Taking above 4.pence for impounding one distresse, loſeth 5. pound to the party grieved, besides such mony as he shall take above the summe of foure pence, 1.& 2.P.& M.6.12,ib.d.

"A man attainted of trespassse commeth in
"gratis, and findeth surety for his fine, he shall
"pay no fees to the heriffe or Gaoler. Cro 176.
"a.nu.6. so of him that is indicted before Just. of
"Peace, and is committed till he pay his fine.

"The officer is to take nothing of him against
"whom proceſſe is granted to come before a Ju-
"stice of Peace, to finde surety for the peace.
"Cro.176.a.nu.8.

Fees for a Justice of Peace are (*ut dicitur*) Cro. 176.a.nu.9.

"For a recognisance for the peace, 2.shil.

"For a recog. to baile a prisoner, 2.shil.

"For a *Superſedeas* of the peace 2.shil.

"For a warrant of the Peace under seal, 2.s.

"For release of the peace, 2.shil.

"For a warrant which concerneth not the
"peace, 4 pence.

For

“ For the recognisance of an Alehouse-keeper,
 “ 12. pence. *Cro.nu.10. 5.E.6.c.25.*

“ *Vide plus Dal.385.*

Felo de se.

A man that kills himselfe, either with a meditated hatred against his own life, or out of distraction or other humour, is *felo de se*, and forfeiteth his goods reall and personall chattels to the King, and debts due upon specialty, and also upon simple contract, or without specialty. *Coo.4. 95.a. Dal.240.*

“ Two fighting, the one of them falleth on the
 “ ground, and draweth his knife, the other falling upon him, doth also fall on the knife and
 “ is slain, he is in a sort *felo de se*. *Dal.274. Cro.28.*
 “ *a.nu.7. Pax.reg.122.b. Sta.16.a.*

An infant, or *non compos mentis*, killing himself, doth not forfeit, but a lunatick doth. *Dal. ibid. Lam.247.*

All his goods shall be forfeited which he had at the time of the blow given, but not till his death be presented and found of record. *Dal. ibid.*

He forfeiteth no lands, nor is his blood corrupted. *Dal. ibid.*

The enquiry of *felo de se* belongs to the Coroner: but if the Coroner cannot have sight of his body, as being cast into the sea, or secretly buried, the Justices of P. may enquire thereof, and a presentment before them intituleth the King to his goods. *Dal. ibid. Coo. 5. 110.b.*

Felony.

Felonies are either } Common law,
 by the } Statute law.

By the Common law, all kinde of homicide not warranted, Burglary, Theft, Burning of houses,

houses, Rescous, and Escapes. *Dal.* 238.

Vide their severall titles.

Felonies by Statute.

The Kings sworn servant conspiring to destroy the King or any Lord of the Realm, or any sworn to the Kings Councill, or the Steward, Treasurer, or Controller of the Kings household. 3.H.7. c.14. *Dal.* 275.

Breaking of prison by one being therein for felony, or a prisoner for felony. 1. E. 2. *de prisonam frangent.* *Dal.* *ibid.*

And if he escape going to the Gaole. *Cro.* 49.b.

If under arrest for felony or suspicion, whether in the Gaole or out, it is breaking of prison though he be not indicted of felony. *Cro.* 38.a.m. 1. P. R. 147.

A stranger breaketh the prison, or openeth the stocks, or makes rescous of one imprisoned or arrested for felony, who escapeth, it is felony in them both. *Dal.* 275. *Cro.* 38.a.m. 1.

Quere, if a stranger disturb the arresting of a felon. *Dal.* *ib.* *Fitz. Just. P. fo.* 114. *Lam.* 229.

Rescuing a Prisoner going to execution, is felony. *Dal.* *ibid.*

Gaoler, Constable, or other having a prisoner under arrest for felony, voluntarily suffereth him to escape, it is felony only in him that suffereth the escape. *Dal.* *ibid.* *Lam.* 229.

If the prisoner escape by negligence of his keeper, it is felony only in the prisoner. *Dal.* *ibid.*

Escape before arrest is no felony, but the officer may be endited and fined. *Dal.* 276. *Lam.* 230. *Cro.* 39.a.m. 5.

Buggery with mankinde or beast.

Burning of houses or stacks of corn.

Congregations and confederacies holden by
Masons. Cutting

Cutting out of tongues, or putting out eyes.

Cutting Powdike, or bank in Marsh-land.

Conjuration or invocation of evill spirits.

1. *Fac.* 12.

Consultation with an evill spirit, &c. *Vide*

1. *Fac.* 12.

Embezeling the Kings ordnance, armour, &c. to the value of 20. shillings, though at severall times. 31. *El.* 4. *Dal.* 287.

Embezeling of any record, writ, &c. 8. *H. 6. c.* 12. *Dal.* *ibid.*

Rasing of a record is fineable at the Kings will, &c. 8. *R.* 2. *cap.* 4. } *These two belong not to Justices of the Peace.*

Forging of evidences, &c. the second time. 5. *El.* c. 14.

Gaoler enforcing his Prisoner to become an approver.

Hawks embezelled, and not brought to the Sheriffe.

Hawkes concealed, or stollen from the owner.

Hunting Deere or Conies in the night, and upon examination concealing the offence, or disobeying the arrest for such offence.

Taking a tame beast or other thing in a parke by way of robbery.

Marrying a second husband or wife, the first living. 1. *Fac.* c. 11.

Multiplication of gold or silver.

Infected with the plague, going into company contrary to command. 1. *Fac.* c. 31.

Wilfull poysoning, if the party die within a yeare and a day after.

To receive, relieve, or maintaine Popish Priests.

Recusants refusing to abjure, or return after departure.

Purveyour taking for the Kings house any thing above 12. pence.

1 Without

1 Without warrant under the great seale, *Vide Dal. 284.*

2 Buying any thing in any other manner then is contained in their warrant.

3 Taking any carriage in any other manner then is comprised in their commission.

4 Shall carry away any thing against the owners wil, without paying or agreeing for the same

5 Shall not make his provision and purveyance by the testimony and apprizement of the Constable and foure neighbours sworn, if the purveyor and owner cannot agree, and shall not deliver Tales or Indentures sealed with his seale touching the same.

6 Or shall take more victuals or carriages then he shall deliver unto the Kings house.

7 Or take sheep in wooll betwixt Easter and Midsummer at small prices, or more then be sufficient for the Kings house, and carry them to his owne, and sheare them.

In every of these cases it seemeth to be felony in such purveyor, their deputy and servants.

A Charter of any subject or officer taking any thing against the owners consent, and not paying presently. 36.E.3.c.6. 7.R.2.c.8. 23.H.6.c.14. *Dal. 287. Cro. 48.a.*

Incorrigible Rogues banished the Realme, and returning without licence. 39.El.c.4.

Robbing house, barne, or stable in the day, to the value of 5. shillings, though no body be within. 39.El.c.15. no Clergy.

Robbing any house by day or by night, any person being therein, and thereby put in feare, *ibid.* without Clergy.

Robbing any person in part of his dwelling, any of his household being within, *ibid.* without Clergy.

To rob any Booth in Faire or Market, any person thereto belonging being within sleeping or waking *ibid.* sans clergy.

Servant (other then an apprentice) to whom money, goods, or chattels, &c. are delivered to keep by master or mistresse to the value of forty shillings, do go away therewith, or convert them to his own use, to the intent to sell the same, or defraud his master or mistresse. 21.H.8.c.7. 5.El.c.13. *Dal.* 264.

Souldiers going out of the Realm to serve a forrain Prince, not having first taken the oath of allegiance. 3 *Fac.* c.4. *Dal.* 284.

A Gentleman, or of higher degree, Captain, or other Officer in Camp, going to serve a forrainer before he is bound with 2. sureties to the King, not to be reconciled to the Pope, &c. nor to make nor consent to any conspiracy against the King. 3 *Fac.* c.4.

Souldiers having taken presse-money, not going with their Captain; or being in service, departing without licence. 18. H. 6. c. 19. *Co.* 6. 27. 7.H.7.c.2. 3.H.8.c.5.

Mariners and Gunners taking presse-money to serve the King, and departing without licence. 5.El.c.5.

Souldiers and Mariners which settle not themselves to some good course of life, but wander idly. 39.El.c.17.

Souldiers and Mariners landing, and not having a Testimoniall from some Justice of Peace neere their landing. *ibid.*

2 Or exceeding the time limited wilfully, fourteen dayes. *Vide* 43.El.c.3. that they shall be punished as Rogues.

3 Or forge, or have forged Testimoniall, knowing it to be forged.

4 Or

4. Or being retained in service after arraignment, doe depart within the yeare without the Masters licence. 39.*El.c.17.*

"In all these former cases, see the stat. 43.*El.*

"c. 3. The souldiers and Mariners begging or counterfeiting a Certificate from their Captain, &c. shall be adjudged and punished as Rogues. *Dal. 285. Vide Rogues.*

Transporting live sheep, the second offence is felony. 8.*El.c.3.*

Ravishing a woman with force, though consenting afterward. 13.*E.1.3.W.2.18.El.c.6.*

All abettors in rape are principals. *Dal. 289. Cro. 47. b.*

To ravish a Harlot against her will, is rape. *ibi.*

To take any maide, widow, or wife having lands, or goods, or being heire apparent to her ancestor, against her will, unlawfully.

And to receive any so taken knowing thereof, or to procure & abett the same. 3.*H.7.c.2. Dal. Cro. ib.*

To abuse a woman carnally under 10. yeers of age. 18.*El.c.6.*

To take a mans wife with her husbands goods against her will, or her husbands. 13.*E.1.34.West. 2. Stamf. 94. Dal. 290. Cro. 35. ann. 2.*

Feloniously to take goods out of any Church or Chappell. *Lam. 420.*

A woman delivered of a bastard, doth by drowning or secret burying thereof by her selfe or other conceale the death thereof, so that it may not come to light, if it were dead born or alive, it is murder in the mother, except shee can prove by one witnesse that the childe was borne dead. 21.*Fac.c.27. Dal. 290.*

To acknowledge any fine, recovery, deed inrolled, statute, recognisance, baile, or judgement in the name of another not privy to the same, is

E

felony

felony without clergie. 21. *Fac. c. 26. Dal. 284.*

“ Felony done in one Kings dayes may be try-
 “ ed in another Kings time. *Cro. 37. a. iii. 31*
 “ *Dal. 297.*

“ A felony is done in one county, and the fe-
 “ lon flyeth into another, and is there taken, hee
 “ is to be committed to the gaole of the county
 “ where he was taken, and be removed by writ
 “ to the gaole of the county where the felony
 “ was done. *Dal. 298.*

“ For stealing goods in one county, and car-
 “ rying them into another county, the felon may
 “ be endicted in either county. But for robbery
 “ the endictment must be in the county where
 “ the robbery was. *Dal. 298. Bro. cor. 140. indict. 26.*

“ One stealeth stolen goods, the owner may
 “ endict the first or the second. *Dal. 298.*

“ Any man may prosecute for stealing *bona*
 “ *ignoti. Dal. ibid.*

“ If the owner will not charge the felon, any
 “ other (after proclamation made, *If any will in-*
 “ *forme for the King*) may safely informe, indict,
 “ and give evidence. *Dal. 298. But*

“ A Justice of Peace hearing of any that can
 “ informe, may send for him, examine him, and
 “ bind him to give evidence. *Dal. 298.*

Felony of his owne goods, *vide Theft.*
 Ferrets, *vide Hunting.*

Fewell.

One Justice of Peace may set on the Pillory,
 in the next Market towne to the place of offence,
 any person convicted of breaking the assise of
 fewell, and not able to pay the forfeiture, there to
 be at eleven of the clocke on the Market day, with
 a billet or faggot bound to some part of his body.

Quare

Quere, whether one Justice may convict him alone. 7. E. 6. cap. 7. Lam. 196.

Fines.

Fine taketh his name of the Latine *finis*, for that it maketh an end with the King for the imprisonment laid upon the offender, for the offence committed against him. Lam. 574.

Upon payment of the fine, or upon pledges found by a recognisance to pay it, the offender ought to be delivered. Lam. *ibid*.

The assessment of fine belongeth to the Justices before whom the conviction is lawfully had. Lam. 576.

Stander by when a man was slaine, is to be imprisoned till he make his fine, because he did not his best to attach the murderer: so of other felonies. Lam. 132. 289.

Fine upon a forcible entry or detainer upon offenders convicted of record by a Justice of Peace, and by him committed to the gaole, shall be assessed by the same Justice, and upon bonds with sureties he may enlarge them. *Tamen quare*: and estreat it, and send it into the Exchequer: but it is best to leave the fine to the discretion of the Kings Bench. Lam. 158, 159. Dal. 58.

Upon conviction for offences, where no fine certaine is limited, no fine can be assessed till the offender be brought in by *Capias pro fine*, or otherwise, unlesse it be for Ale-houses and Highways. Lam. 573.

Where any statute speaketh of fine and ran-some, the ran-some ought to be at least treble the fine. Lam. 575. the opinion of Sir Edward Coke is, that fine and ran-some are all one, *vid*. well discussed. *Cok. inst. tut.* 127. a.

Where the statute maketh an offence fineable

ble in generall termes, or at the Kings will, the Justice of Peace before whom the conviction is had, may asseſſe the fine, which is fitteſt to be done in open Sessions. *Lam.* 576.

Fines upon the ſtatute of tyles, of croſſebowes, and of alehouſes, by expreſſe words of the ſtatute, may not be altered. *Lam.* 578.

Fines muſt be reaſonable and juſt, according to the quality of the offences. 34. *Ed.* 3. *cap.* 1. *Lam.* 577.

After one is taken by a *Capias pro fine*, the Juſtices of Peace are to aſſeſſe the fine by their diſcretion, and to deliver the party. *Lam.* 574.

Fines of Rioters, *vide* Riots.

Fines of Brewer, Baker, Tipler, *vide*
Aſſiſe of bread.

Fish.

Stealers of fiſh out of ponds, and cutters of ponds heads, are to be bound to the good behaviour, and three moneths imprifonment, and to the party grieved his treble damages, 5. *El.* 21. *Lam.* 446. See 3. *Fac.* 13.

If any caſt nets into waters, by which the fry of fiſh may be taken, or take Salmons betwixt the nativity of *Mary* and *S. Martin*, or young Salmons betwixt the miſt of Aprill and Miſſomer, one Juſtice may puniſh them for the firſt offence, by burning their nets and engines; for the ſecond by three moneths imprifonment; for the third, by one yeares imprifonment; and for any of them, by fine, at the diſcretion of the Juſtice. 17. *R.* 2. *c.* 9. *Lam.* 190. 454. 576.

Forfeitures upon the ſtat. 3. *Fac.* *c.* 12. where any offence is committed, in deſtroying the ſpawn or brood of ſea-fiſh, may be levied by diſtreſſe and ſale

sale of the offenders goods, by warrant from one Justice of Peace to the Constables or Churchwardens. 3. *Fac. ca.* 12. the forfeiture given is ten shillings, the one moiety to the poore, &c. the other to the person that shall sue for the same.

He that shall by preaching, teaching, writing, or shall notifie upon open speech, that the eating of fish, or forbearing of flesh upon any dayes now usually observed for fish-dayes, is for necessitie of salvation of soules, or is the service of God, otherwise then other publike laws be, shall be punished as spreaders of false newes are and ought, &c. 5. *El. c.* 5. 1. *Fac. c.* 29. *Lam.* 442.

Fish-dayes.

Any, except aged, sick, with child, or licensed, eating flesh in Lent, or on fish dayes, loseth 20. shil. and one moneths imprisonment. 5. *El. c.* 5. 27. *El. c.* 11. *Lamb.* 458. 35. *Elif. cap* 7. 1. *Fac. c.* 29.

Taverners, Inne-keepers, common Tabling-house, Tippler, or Alehouse-keeper, offending against the statutes 5. *El. c.* 5. & 1. *Fac. c.* 29. for killing, dressing, and eating of flesh, is to lose the flesh, and the penalty of 5. *El. c.* 5. which is three pound. 1. *Fac.* 29. *Lan.* 458.

Forfeiture upon the statute, 1 *Fac. c.* 29. for eating of flesh, except such as be taken by the Justice of Peace, Maiors, Bailiffes, head-officers, or Constables, are to be equally divided betwixt the King and the Informer. 1. *Fac. c.* 29. expired.

Licence granted to sick persons to eat flesh on fish-days, shall be no warrant for them to eat beef, mutton, veale, pork, or bacon. 1. *Fac. c.* 29. expired.

Butcher or other, though licensed, killing in Lent to sell any ox, beef, hog, calfe, or mutton, except three dayes next before Easter, or oxen or beef for victualing of ships, loseth the meat or value. 1. *Fac. c.* 29. expired.

Justice of Peace, or head-officer of corporations, or Constables of Towns may in Lent search Victuallers houses suspected of dressing flesh; and finding any flesh, beefe, hog, calfe, or mutton, may seise on it, and give it to the poore. 1. *Jac. c. 29. EXP.*

“ Bish. of the Diocesse, Parson, Vicar, or Curate
 “ of the Parish where one is sicke, may grant licence for eating of flesh, which must be signed
 “ with the hand of the Bish. Parson, &c. and indure no longer then the sicknesse. 5. *El. ca. 5.*

“ Any person granting licence without need
 “ loseth five markes, and the licence is void. *ibid.*

Flesh, *vide* Fish-dayes.

Flaxe.

Forseiture due to the Informer upon the statute of flaxe and hempe to be levied by what Proces the Justice will. 24. *H. 8. c. 4. Lam 584. but 24. H. 8. c. 4. is repealed by 35. El. c. 7.*

Flesh, *vide* Fish-dayes.

Forrain power, *vide* Treason.

Forrain plea, *vide* Tryall.

Force.

Every trespasse in judgement of law is a force, and the action may be, *quare vi & armis. Dal. 199. Lam. 141.*

That which is properly *Manu forti*, or
 force, is either *Multitudine*.

Manu forti, is violence offered to the person of another by deed or word. *Dal. 199.*

By deed, is actuall violence, or to be furnished with offensive weapons not usually borne. *ibid.*

Any thing which a man taketh in his hand to throw it at another, may be said to be armour.
Cro. 74. b. Multitudine,

Multitudine, where there be two or three in a company, or more. *Dal.* 199.

Who shall be said to enter with force.

Forcible entry must be, an actuall entry. *Dal.* 199.

If one or more come weaponed, especially with weapons unusually worne, and violently enter into an house or land. *Lam.* 142. *Dal.* 199.

Much more being entred, if he or they offer violence, or feare of harme to any in possession, or drive any out of possession. *Dal. ibid. Lam.* 142.

Many come to doe a force, and one onely useth force, all are guilty. *Dal.* 204. *Lam.* 143.

To enter peaceably, and forcibly to put out another. *Dal. ibid. Lam. ibid.*

To enter peaceably, and after to offer violence, threatnings, or feare of harme to one in possession, with intent to get him out, though he get him not out. *Dal. ibid. Lam. ibid.*

Entring peaceably, and saying they will hold, although they die for it. *Lam.* 146. *Dal.* 200.

To enter peaceably with weapons (not usually borne by them) to house open or grounds. *Dal. ibid.*

The Master entring with moe servants then usuall. *ibid.*

A trespassse made *manu forti*, or *cum multitude*, though it be but to cut or take away another mans corne, grasse, or goods, or fell or crop wood, or to doe any other trespassse, though the party be not put out of possession, yet it seemeth forcible entry punishable by the statutes: but otherwise if the entry be peaceable, yet it is disseising with force. *Lam.* 143. *Dal.* 200.

To enter peaceably, and after entry, by force or violence to cut corne, grasse, wood, &c. or

carry away anothers goods, is force. *Dalton* 200. *Cro.* 70. a:

To distraine for rent due or not due with force, doth countervaille a force. *Da' ibid.* *Lam.* 144.

Divers enter where the entry is not lawfull, and all save one demeane themselves peaceably, and one onely entreth with force, or after entry useth force, it is forcible entry in all. *Cro.* 22. a. *nu.* 15. 24. b. *nu.* 43. 34. b. *nu.* 19. *Lam.* 143. *Dal.* 217.

In all these cases of trespasse, onely the Justice of Peace may, as it seemeth, remove the force, and upon view imprison and fine. *Dal.* 200. 202. and upon view the Justice may instantly commit the offender, and record the force. *Cok.* l. 8. f. 120.

Forcible entry by words.

To enter peaceably, and then to offer by threatening, to kill the disseise if hee re-enter. *Dal.* 200.

What is not force.

To enter by faire meanes, his entry being lawfull, and perswade them within to come out, and the doore being open, or shut by the latch, to enter without multitude, or offensive weapons, or other violence. *Dal.* 201.

To enter peaceably and quietly, getting other out, and quietly to hold it. *Dal. ibid.*

To enter peaceably into a house, and finding armour or weapons, not to remove them. *Lam.* 145.

To take a man being out of his house, and imprison him, and in the meane time to send another peaceably to enter, is no force. *Lam.* 146. *Dal.* 201.

He that onely agreeth to a forcible entry made to his use, is onely a disseisor. *Dal.* 204.

What

What shall be said a forcible detainer.

Forcible detainer is of lands and tenements not of the person. *Lam. 146 Dal. 201.*

If entry be peaceable, and the detainer forcible, it is punishable, except quiet possession had beene had for three yeeres *Lal. ibid.*

To deny a Justice of Peace to enter (upon supposall of a forcible detainer) is forcible detainer, though it be but by one person, and no weapons shewed. *Dal. ibid. P. R. 41. Lam. 145. Cro. 70. b. nu. 40.*

If the Justice enter, and findeth any armed, or any armour or unusuall weapons lying by them, or find more then the ordinary family. *Lam. 145. Dal. 202.*

To enter peaceably, and after to bring in more weapons, or use the weapons found in the house to defend his possession, or place some with weapons in a house adjoyning ready to assaile the enterers. *Lam. 145. Dal. 202.*

The disseiser forestalleth the way of the disseised with force, so that he dare not come neere. *Dal. 202. Lam. 145. Cro. 69. b. nu. 26.*

To keepe cattall by force where hee hath no common, the Justice may imprison and fine, but not make restitution. *Dal. ibid. Cro. ibid. P. R. 39.*

To detaine a house morgaged by force from the morgager is forcible detainer. *Dal. 203.*

What is forcible detainer by word.

To enter peaceably, and after to threaten to kill the disseised if he come againe. *Dal. 202. Lam. 146.*

It seemeth to amount to a forcible detainer to threaten to maim, beat, or do bodily hurt to the disseised if he come againe, *Dal. ib.* for that death may ensue upon such bearing or hurt.

What is not forcible detainer.

One entreth peaceably into a house, and finding armour or weapons, doth not remove them. *Lam. 145.*

What is not forcible detainer by word.

To threaten to burne his house or spoile his goods, to deny to open the doors, to deny to goe out. *Dal. 202.*

What is forcible detainer of rent.

The tenant resisteth so forcibly, that the owner cannot distraine for his rent, nor use his common of pasture. *Dal. 203. Lam. 146. Cro. 70. a. nu. 27. P.R. 39.*

The tenant forestalleth the way by force and armes, or threatneth him that hath the rent or common, that he dareth not distrain or use his common. *ibid.*

The tenant maketh rescous of the distresse with force and armes. *Dalt. ibid. Cro. 69. a. nu. 26.*

In these cases of rent or common, the Justice may remove the force, record it upon view, imprison and fine, but can award no restitution. *Dal. ibid.*

What persons may make a force.

One alone, if it be with offensive weapons or turbulent behaviour, to the affray of others. *Dal. 203. Lam. 143.*

An infant of the age of 18. *Dal. ib. Cro. 69. a.* and so he may though he be under 18.

A feme covert may by her owne act make a forcible entry or detainer, and she may be imprisoned and fined, but the fine cannot be levied on the husband. *Dal. 204.*

Consent

Forcible Entry.

Consent.

If one command or counsell others to a force, and be present, though he doe nothing, he is a principall, *Dal.* 204. but if absent, a disseiser.

Divers enter, one onely committeth force, all are guilty, *ibid.* *Cro.* 22. a. m. 15. 24. b. m. 43. 34. b. m. 15. *Lam.* 143.

Who cannot be put out.

The King cannot be disseised, therefore an enditement upon the statute 8. H. 6. for the King is not good, neither can the Kings Farmer prefferre a Bill of Enditement upon the said statute, but must have an Information in the exchequer. *Dal.* 205. *Cro.* 69. a. m. 13.

Where one may hold with force.

Where one hath peaceably entred, and after continued in quiet possession without interruption for 3. yeares together. *Lam.* 159. *Dal.* 210. 211. and may hire strangers to maintaine his possession, and have his company in armour, *Dal.* *ibid.* *Cro.* 71. a. b. but hee may not resist the Justice of Peace that commeth to view.

Upon enditement of forcible holding the plea of three yeares lawfull possession next before, avoydeth imprisonment, fine, & restitution. *Da.* 211

But it holdeth not,

1. If the entry were forcible, though the holding peaceable.

2. If the holding were forcible, though the entry peaceable.

3. If a disseiser have continued peaceably 3. yeeres. *Quere* if he shall be helped by 8. H. 6. or 3. *Elis.* cap. 11. If a disseiser have forcibly continued his possession twenty yeeres, he may be endited upon

upon 8. Hen. 6. and the Justice may make restitution. 14. H. 7. c. 28. Lam. 160. Dal. 211. Cro. 71. a. m. 49.

4. If the possession of three yeeres have beene interrupted. Cro. 71. a. Lam. 162. Dal. 211.

A disseiser quietly holdeth three yeeres, and after the disseisee entreth or maketh claime, the disseiser re-entring cannot hold with force, for he is in upon a new disseising. Dalton. 212.

A lawfull possessor, after twenty yeeres possession is outed, he can neither re-enter, nor hold with force. *ibid.*

What force is lawfull.

Force used by the Kings Officers for the due execution or advancement of justice, or of the judgement of the law : as,

1. To pursue, apprehend, and carry to prison offenders in treason, felony, or other great crimes.

2. A Sheriffe or his Officers to apprehend by vertue of the Kings Writ.

3. A Justice removing unlawfull entries, or holding of possessions, and repressing riotters. Dal. 208.

4. Justice, Sheriffe, Constables, or Coroners, may use force in apprehending or imprisoning such as in their presence attempt to disturbe or breake the Peace.

5. It is lawfull by force to breake open doores, to arrest offenders within, if the Officer cannot otherwise enter.

Note, that the Officer is first to signifie the cause of his comming, before he attempt to breake open the doores, Dal. 209. as,

First, for treason, felony, or suspicion of felony. Cro. 170. b.

2. Where one hath dangerously wounded another. Cro. 131. a.

3. An

3. An affray being in the house. *Cro.* 146.b.
4. Upon a forcible entry or detainer found by inquisition. *Dal.* 208.
5. Upon a *capias utlagatum* in personall action, or *capias pro fine* directed to the Sheriffe. *Cro.* 170.b.
6. Upon Warrant or Proces for attaching a Popish Recusant excommunicate. 3. *fac.* 4.
7. Upon a Warrant for the peace or good behaviour. *Dal.* 209.333. but *Cro.* 176.b. maketh a Quare.
8. Upon recovery in a reall action, or *ejectione firma*, but not to execute the Kings Proces upon the body or goods of any person at the suit of any subject. *Dal.* 209.
9. In cases where the King is party. *ibid.*

Forcible defence is lawfull.

1. For every man to keepe his house to himselfe, his family and goods, as his castle, as well for defence against injury, as for his repose. *Vide plus Houses. Dal.* 209.
2. In defence of husband, wife, father, mother, or master. *Dal.* 184.
3. Father or mother in defence of the child within age. *Dal. ibid.*
4. In defence of my goods or my land, *Dal. ibid.*
5. An heire or feoffee may keep possession by force, if they and their ancestors or feoffors, or they whose estate they have, have been in peaceable possession three yeeres. *Dal.* 210.

In these cases he that attempteth may be disturbed; and if he attempt to assault or lame me, I may beat him againe, as well in defence of my person as possessions, but not kill him. *Dal. ibid.*

" If one will take my goods, I must first lay my hands on him, and disturb him; if he will not desist, I may beat him. *Dal.* 185.

Wha

What Justices of Peace are to doe in forcible entry or detainer.

Every Justice upon complaint or notice given, ought at the cost of the party grieved to doe execution: *viz.*

1. He must goe to the place. *Dal. 57. Lam. 147.*
2. Take sufficient power of the County, or of the Towne, and the Sheriffe also (if need be) as well to arrest offenders, as also for removing of the force, and for conveying them to the Gaole. *Dal. ibid. Lam. ibid.*

"Whosoever of that County shall refuse to give his attendance, and assist the Just. shall bee imprisoned, and make fine. *Dal. 56. 15. R. 2. cap 2.*

3. Arrest and remove all offenders, and take their weapons, and prize them for the King. *Dal. ibid.*

If the doores be shur, and entrance denyed, hee may break open the house, *Dal. 57. Quære.*

The Justice cannot arrest or remove them, if he finde no force, except by enquiry. *Dal. ibid.*

4. The Justice ought to make a record of the force, and either keep it by him or indent it, and certifie one part either into the Kings Bench, or to the Clerk of the Peace, and keep the other. *Dal. ibid.*

"One Justice of Peace upon his own view of forcible detainer, may record the same by 15.

"*R. 2. c. 2. Cro. 61. b. m. 9.*

"The Justice or Justices recording a force upon his or their view, may not put the party put out into possession, but must first enquire by a Jury, and the force being found, put the party outed into possession. *Dal. 59.*

The record of the Justice is a sufficient conviction

ction of the offender, and is not traversable. *ibid.*

5. The Justice ought to commit immediatly to the next Gaole, those which he findeth continuing the force, untill they pay their fine, *ibid.* & 115. or forfeit an 100.pounds. *ibid.*

But such force must be in the presence or view of the Justice.

6. The Justices, or some of them that see the force, are the proper Judges of that offence, and may asseſſe the fine, but it must be upon every one severally. *Dal.* 115. and is to be estreated into the Exchequer; upon which asseſſing and estreating the party is to be delivered. *Dalton* 58. *Lam.* 159.

And so upon payment of the fine to the Justice, or recognizance for payment. *Da.* 58. *vide La.* 159.

Quære, for the Sheriffe is accountable for all fines: and *Lamb.* adviseth to refer it over to the Kings Bench. *Lam.* 159.

Or the Justice may record the force, commit the offenders, and certifie the record to the Just. of Assize, or to the Sessions, and there the offenders fined. *Dal.* 58.

But ought more properly to be asseſſed by them that record the force, *Dal.* 91. and to be of value.

Or the Justice may certifie the record into the Kings Bench, refer the fine thither, *Dal.* 58. which *Lamb.* thinketh the best course. *Lam.* 159.

The fines must be reasonable, *secundum quantitatem & qualitatem delicti.* *Lam.* 577.

7. The force ought to be enquired of in some good place or towne, neere where the force was, *Dal.* 58. and that within a moneth, if it be a riot. *Dal.* 115. One Justice may enquire. *Dal.* 58.

Enquirie may bee though the offenders bee not present, or though the Justice goe not to see the place where the force is. *Dal.* 58. *Lam.*

152.

Without

Without enquire there can be no restitution
Dal. 59. Cro. 161 b. 164. a.

Upon enquire making, the Justice must direct
 his precept to the Sheriffe to summon 24. of 40.
 shill. a yeere land *per annum. Dal. 213. vid. the forme.*
Cro. 132. b. Dal. 400.

“ If the Sheriffe doe not duely execute the Ju-
 stices precept for the returning of a Jury, he for-
 feiteth x. li. 8. *H. 6. cap. 9 Dal. 58.*

Upon default the Justice may award an *alias*
 and *pluries infinite* till they come.

The Sheriffe, at the day of the second precept
 must returne 40. shill. in issues upon every one, at
 the third Writ five pound, and at every day after
 the double. 8. *H. 6. c. 9.*

If any Jurour have not 40. shillings land, yet the
 enditement is good for the King. Quære, if there
 shall be restitution. *Lamb. 152. Dalton 213.*

Returning of smaller issues then the statute,
 hindreth not the enquire. *Dal. ibid. Lam. ibid.*

8. Upon inquirie the Justice may make resti-
 tution, wherein the Justice needeth not to exa-
 mine the title. *Dal. 214. Lam. 156.*

No restitution before inquisition. *ibid. Crom.*
161. b. 164. a. Dal. 214.

In the enditement not onely the entry, but also
 the putting out must be, and *Et adhuc extra tenent,*
Lam. 153. for lacke of these words no restitution
 can be made. *Dal. 214. Crom. 163. b. Lam. 153.*

The enditement must be good, both in matter
 and forme. *Dal. 215.* the words *manu forti*, or *cum*
multitudine, are necessary. *ibid.*

The enditement must expresse the quality of
 the thing, whether messuage, cottage, &c. *tenemen-*
tion may extend to either, and so in certaine. *Dal.*
214.

If restitution be made by a Justice upon an in-
 sufficient

sufficient enditement, the Kings Bench will restore the other. *Dal.* 215. *Cro.* 162.2.

If error be in the enditement, any two of these Justices which were at the taking of the enditement, upon prayer of the party, may grant a *superfedeas* to stay restitution, if restitution be not made. *Dal.* 215. *Cro.* 165.2.

But no Justice not present can grant a *superfedeas*. *ibid.*

The Justice may make restitution, or give warrant to the Sheriffe, or certifie into the Kings Bench, and leave the award of restitution to that Court. *Dal.* 216. *Lam.* 156.

None can grant restitution, but they before whom the force was found. *Dal.* 216. except the Kings Bench.

None can personally restore the party, but hee that tooke the enquiry, *Dal.* 216. And that by precept to the Sheriffe. *Lam.* 158.

After enquiry the Justice of P. may breake into the house by force, and put the ejected into possession. *Dal.* 59.

If restitution be made without enquiry, it is punishable in the Starre-chamber. *Dal.* 45.

Restitution must onely be made to him that was put out. *Dal.* 159. 213. *Lam.* 153.

Restitution is to be made onely of house and land. *Dal.* 214 but not of rent, common, or advowson. *Dal.* 59.

Restitution may be made notwithstanding a traverse. *Dal.* 60. but upon tender of traverse, the safest way for the Justice is to certifie the presentment into the Kings Bench. *ibid.*

If the Justice upon complaint or notice given of a force, doe not remove the force, record it, and commit the offenders, it is punishable in the Starre-chamber. *Dal.* 60.

The

The offenders being gone, the Justice may send his Warrant, and commit them till they finde surety of their good behaviour. *Dal. 60.*

If force be made by three, it is a riot. *Dal. 61.*

The proceedings upon a Writ upon the Stat. of Northampton, 2. Ed. 3. 3.

1. The Justice of Peace to whom this Writ is delivered, is but a minister therein, and coming to the place where the force is supposed, by the Writ he may cause 3. *O-yes*, and then make proclamation for silence, prout *Dalton 61. Cro. 72. a. b. Lam. 168.*

2. Then may he reade, or cause the Writ to be read, or declare the effect thereof.

3. Then let three *O-yes* be made, and make proclamation againe for silence, prout *Dal. 61. Cro. 72. a. Lam. 169.*

4. Either enter and search for armour, or enquire by Jury. *Dal. 62. Lam. ibid.*

All that remaine after proclamation, are to bee imprisoned, and the armour apprized *ibid.*

If upon proclamation they depart, they are not to be imprisoned.

The execution of the Stat. of Northampton without Writ.

Every Justice of Peace may execute it *ex officio* without Writ. *Dal. 62. Cro. 72. a.*

The difference in the manner of execution is, that without Writ there needeth no proclamation nor certificate into the Chancery, but the Justice may enter, search, commit the offenders there found, apprise the armour, record all what he

he shall doe, and thereout send an estreat into the Exchequer. *Dal.* 62. *Cro.* *ibid.* *Lam.* 171.

The Justice cannot make restitution to the party outed, but onely remove the force. *Ibidem* *Lam.* 172.

Of causes to stay granting of restitution, vide Dal. 218.

Forfeitures of a Recognisance taken for the Peace.

Whatsoever is a breach of the peace, the same is a forfeiture of the recognizance. *Dal.* 181. as,

1. To threaten a man to his face to beat or kill him, *Cro.* 136. b. *Lam.* 115. but not if he be absent, *Dal.* 152.

2. To strike at, or offer to strike at a man, though he hit him not.

3. All affaires, malicious and violent striking, or other mis-intreatings, of the person of another. *Dal.* 181. *Lam.* 127.

4. To go with company or weapons unusuall. *Dal.* *ibid.* *Cro.* 137. a. *Lam.* 126.

5. To command or procure another to breake the peace, and if it be done in deed. *Lam.* 115. *Dal.* 182. *Cro.* 137. a.

6. Imprisoning or arresting another without warrant. *Lam.* 127. *Dal.* 182.

To thrust one into the water, whereby he is in danger of drowning. *ibid.*

To ravish a woman against her will. *ibid.*

To commit burglary, robbery, murder, manslaughter, or doe any treason against the person of the King. *Lam.* 127. *Dal.* 182.

To be riotously assembled.

The act that breedeth the forfeiture of a Recognizance

cognizance of the peace, must be done unto the person of another. *Dal.* 182.

Vide plus recognizance, *vide plus* breach of the Peace and Fines.

One committed for petty larceny, and convicted thereof, shall forfeit his goods, *Lam.* 273. *Dal.* 234. *Cro.* 36. b. *nu.* 20.

Forfeitures upon statutes, *vide* severall statutes.

Forgery.

Second forgery of deeds concerning anothers land after a former conviction is felony. 5. *El.* 14. but not enquirable by the Justices of Peace. *Dal.* 288. *Cro.* 36. b. *Lam.* 549.

Forraine plea.

One indicted of petty treason, murder, or other felony, pleadeth a forraine Plea tryable by Jury, it shall be tried before the Justices before whom he was indicted, and by the Jurours of the same County. 22. *H.* 8. c. 14. 32. *H.* 8. c. 3. *Lam.* 552.

Forrester.

Forrafter, Warriner, or Parker, after Huy and Cry to yeeld, killeth any man in his office making resistance, it is justifiable. 21. *E.* 1. *de malefactoribus in Parcis.* *Lam.* 235. *Dal.* 255.

Forestalling and Forestallers.

Forestaller is he that buyeth or contracteth for any victuals or wares before they come to the Market, Faire, or Port, or moveth the party to enhance the price, or not to bring them to the Market, Faire, or Port. *Lam.* 450.

Forestaller convicted before the Justices of Peace at the Quarter Sessions by examination of two witnesses, or presentment for forestalling, for

for the offence shall for the first time

Lose the goods, and be imprisoned two moneths without baile or mainprise.

2. For the second lose double the goods, and be imprisoned for six moneths.

3. For the third lose all his goods, stand in the pillory, and be imprisoned during the Kings pleasure. *5. Ed. 6. c. 14. Lam. 570.*

The moitie of the forfeiture upon the statute of forestallers due unto the party, is to be levied by *Fieri facias* or *Capias*, to be awarded by the Justices of Peace. *Lam. 584.*

Fowlers and Fowling.

Shooter, taker, or destroyer by guns, bowes, setting dogges, nets, or other engines, of any Pheasant, Partridge, Pigeon, Heron, Mallard, Ducke, Teale, Wigeon, Growse Heathcock, Mooregame, or such fowles, upon conviction by confession, or oath of two witnesses before two Justices of Peace, where the offence or apprehension is, to be imprisoned three moneths without baile, unlesse he pay to the Churchwardens of one of the places, to the use of the poore, 20. shillings for every Pheasant, and also for every egge of Pheasant, Partridge, or Swan taken or destroyed, or after one moneth of his commitment become bound with two sureties in recognizance of twenty pound never to doe the like, the same recognizance to bee returned to the Quarter Sessions. *1. Jac. 6. 27. Lam. 334. Dal. 89. 7. Jac. 6. 11.*

Vide Partridges and Pheasants.

Games, *vide* Unlawfull games.

Gaole

Gaole Gaoler.

GAoler or Sheriffe may make a Gaole of his owne house ; so cannot a Constable nor Justice of Peace. *Lam.* 133. *Dal.* 347, 348.

Gaoler suffers a felon to goe at large, and hee escapes ; it is felony in the Gaoler, nor in the prisoner. *Lamb.* 229. *Dalt.* 174. *P.R.* 147, 149. *Dal.* 278.

Gaoler by hard and cruell custody compells his prisoner to become an approver ; it is felony. 14. *E. 3. cap.* 10. *Lam.* 231. 420. *Crom.* 49. a. *Dal.* 288. as,

Gaoler killeth an unruly prisoner which doth assault him ; it is no felony. *Lam.* 235.

Gaoler by hard usage killeth his prisoner ; it is murder. *Lam.* 240.

Gaoler that taketh above 4. pence upon commitment of any prisoner arrested or attached forfeiteth to the party grieved treble damages, and 40. pounds, the one moiety to the King, the other to the party that will sue for it. 23. *H. 6. c.* 10. *Lam.* 431.

Gaoler or Sheriffe refusing to take a felon delivered by Constables or township, or taking any thing for receiving, is to be fined. 4. *E. 3. c.* 10. *Lam.* 434.

Six Justices may in sundry shires take order for the common gaole, whereof the Sheriffes shall have the custody, and to which murderers and felons, &c. shall be sent, and may performe many incidents thereto by the statute. 23. *H. 8. c.* 2. 13. *El.* 25. *Lam.* 336. EXP.

Accountant for money levied for the Gaole to build it, goeth into another Country ; the Justices of Peace where the gaole is, may send an attachment for him unto another shire. 23. *H. 8. c.* 2. 25. *Hen.* 8. c. 5. 5. *El. c.* 24. *Lam.* 525. EXP.

Gaoler

Gaoler suffereth a prisoner to goe abroad out of his sight, and he returneth not again; it is an escape. *Cro. 39.b.nu. 5.*

Gaoler refuseeth to receive one arrested for felony, the Towne must keepe him till the Gaol delivery. *Dal. 348, 349. Cro. 172.a.* but the Gaoler denying to receive such, shall be punished by the Justices of Gaole delivery. *ibid.*

Gaoler shall take no fees of any servant, carpenter, mason, nor any labourer committed for refusing to serve, on paine of 10. pound to the King. and 100. shillings to the party. 34. *E. 3. c. 9. Cro. 185.a.b.*

Glassmen.

Glassmen of honest life may travell without begging within the County, by licence of three Justices under their hands and Seales, one being of the Quorum, 39. *El. c. 4.* but by 1. *Fac. c. 7.* they are made Rogues, and so to be punished.

Goldsmith:

Goldsmith, or worker of gold must worke as fine silver or gold in allay as the sterling, and set his marke on it, or forfeit the double value, 2. *H. 6. c. 14. Lam. 467.*

None to gild any thing, or any metall but silver, except spurres of Knights, and apparrell of Barons, or above, on paine of 10. times the value, and a yeares imprisonment. 8. *H. 5. c. 3. Lam. 467.*

Good abearing.

Good abearing may be granted upon discretion, and that by one Justice out of the Sessions; yet better not to commend it but upon speciall cause seen to themselves, or upon suit of others, & those very honest. and seldome for one cause alone, and not by one Justice only. *Lam 120. Dal. 191.*

Good behaviour may be granted by special Writ out of the Chancery, *Custodibus pacis & vicecomiti & eorum cuilibet*, upon the statute of 34. Ed. 3. 1. Lam. 1. 17. Dalt. 192.

For what causes it is grantable
Dalt. 192.

1. Against common barrettours, quarrellers, and disturbers of the Peace.

2. Rioters.

3. Liers in weight to rob.

4. Generally feared or suspected to be robbers by the High-way.

5. Such as are likely to commit murder, homicide, or other grievances to the Kings subjects in their bodies.

6. Such as shall practise to poyson another.

7. Against all such as be of evill name or fame generally, but especially against such as are defamed in these particulars :

1. Those that haunt bawdy-houses.

2. Suspected to keepe houses of common bawdry.

3. Common whoremongers and common whores.

4. Night-walkers that be suspected to be pilferers.

5. Evesdroppers that cast mens carts and gates into ponds, and such like misdemeanours in the night ; such as live idly, yea fare well, and go well clad, having little to live on, except upon examination they give good account of such their living.

6. Common haunters of Alehouses or Tavernes, having small meanes to live on.

7 Drunkards twice convicted.

8. Messen.

8. Messengers of theeves.
9. Such as make false hue and cry.
10. Cheaters and couzeners.
11. Libellers.
12. The putative father of a bastard.
13. Unlawfull hunters in Parkes, after examination taken.
14. Abusing of officers in executing their office, as Justice of Peace, Constable, or other officer of the Peace; as a Justice seeth a man breake the Peace, and doth charge him to keepe the Peace; who answereth, he will not.
Words of contempt against a Justice of Peace, though he be not executing his office.
15. Abusing a Justice of Peace his warrant.
16. He that complaineth of riot or force, and the justices being assembled for inquirie will not prosecute.
17. He that chargeth one with felony before a Justice and will not prosecute.
18. Abusing of a *Superfedeas* of the Peace to a wrong end.

By divers Statutes.

1. Disturbers of Preachers. 1 M.c. 3.
2. Destroyers of fish ponds, or stealers of fish, after lawfull conviction. 5. El.c. 21.
3. Takers of hawkes or hawkes egges out of other mens grounds after lawfull conviction. 5. El.c. 21.
4. Stealers, hunters, or killers of Deere, or Conny in Parke or Warren after lawfull conviction. 3. Fac. 6. 13.

*All these shall be bound at the
Sessions.*

5. Popish recusant must be bound in the Kings Bench. 23.*El.c.* 1.

6. One pardoned for felony, is to be bound before the Sheriffe and Coroners. 10.*Ed.3.c.* 3.

7. Disturbers of the execution of the Statute for rogues. 39.*El.c.* 4.

8. Disturbers of the execution of the Statute for the poore. 39.*El.c.* 4.

9. Shee that hath had twice a bastard. 7.*Fac. cap.* 4.

10. Infected with the plague, or having their houses infected and are unruly. 1.*Fac. cap.* 3 1.

Grayhounds, *vide* Hunting.

Guns and Gunners.

Gunner that departed from his Captaine without licence, or wandring with a forged licence, is felony. *Lan.* 427.

Every person may attach an offender against the Statute 33.*H.8.c.* 6. and carry him to a Justice of Peace. *Dal.* 65.

And the Justice upon examination may send him to the gaole till the penalty be paid.

*The particulars of the Statute
33.Hen.8.*

None under 100. pound *per annum* may shoot in, or keep a gun, dag, pistoll, crosse-bow, or stone-bow.

None

Guns and Gunners. III

None may have or use any gun under three quarters of a yard in length.

One of a 100. pound *per annum* may take such gun from the offender, or any crosse-bow, or stone-bow, and may keep the bow, but must break the gun.

None may travell with a gun charged, or bow bent, but in time of service, and to the musters, except he have 100. pound *per annum*. *Dal.* 65.

None may shoot in a gun neere a Market Towne, but in defence of his house or person, or at a Butt.

The master may not command his servant to shoot, except at a Butt, or in war.

1. Except Serving-men (whose masters are enabled) at a Butt.

2. Inhabitant of Market Towne.

3. Persons dwelling alone, or neere the Sea, within five miles.

4. Gun-makers.

5. Those that have Placards.

All persons which shoot in guns (other then such as have 100. pound *per annum*) ought to present their names to the next Justice of Peace, and the Clerk of the Peace should record it. *Dal.* 66. maketh *quare* if it be in use.

“The Sheriffe, or any of his Officers may carry guns, dags, or other weapons, offensive or defensive, for the execution of their office, notwithstanding the Statute of 33. *Hen. 6. c. 57. 2.* *Dal.* 66.

“Any two Justices may commit, for three moneths, such as shoot with gun or bow at any partridge, pheasant, house-dove, mallard, or any fowle, or at any hare, unlesse he pay 20. shillings. 1. *Fac. c. 27.* *Dal.* 66.

Vide Hunting Partridges.

Hares.

" IF any have traced, killed, or destroyed any
 " Hare in the snow, he loseth 6. shill. 8. pence
 " for each Hare. 14. H. 8. c. 10. Lam. 447.

Buying and selling of Hares, *vide* Partridges.
 See the Stat. 1. Jac. c. 27. in Fowlers.

Harneſſe and Habiliments of war.

To imbezill habiliments of war, or victuals
 provided for ſouldiers, mariners, or gunners, is
 felony. 3. El. c. 4.

Hart proclaimed, *vide* Deere.

Harveſt time.

Artificers and other perſons meet to labour, are
 compelled by one Juſtice of Peace or Conſtable,
 and the refuſer to labour in hay time or harveſt,
 is to bee put in the Stocks two daies and one
 night. Lam. 475. the Conſtable or other head
 officer to doe it upon paine of 40. ſhillings. 5. El.
 cap. 4.

Hawks and Hawking.

Unlawfull taker of Hawkes egges is to have
 three moneths imprifonment, there to remaine
 till hee finde ſureties for the good behaviour for
 ſeven yeares. 5. Eliz. cap. 21. Lam. 446. *vide* 3.
 Jac. cap. 13.

Taking

Hawks and Hawking. 113

Taking of Hawkes eggges upon ones owne grounds or anothers, or any Eirer, or driving them out of their cover, or bearing any Hawk of the breed of England, called a Nyeffe, Goshawk, Tassel, Lanner, Lanneret, to be imprisoned a yeare and a day, and lose ten pounds and the Hawk. 11. *H. 7. c. 17. Lam. 446.*

Every Justice of Peace may examine the offences for hawking or hunting with Spaniels in eared or coddled corne, and binde over the offender with sureties to the next Sessions. 23. *Elix. cap. 10. Dal. 66. Lam 447.*

Against hawking at pheasant or partridge, between the first of July and last of August, *vide 7. Jac. cap. 11.* and Partridges.

Vide plus Larceny and Felony.

Hay and Oats.

Inholder taking any thing for litter, baking horse-bread, except in Towne or Village, being a thorough-fare, and being no City, Towne corporate, or Market Towne, the same to bee of assize and weight, after the price of corne and graine in the Market, or sell horse-bread, hay, oats, beans, pease, provender, and all kinde of victuals, both for man and beast, for reasonable gaine; for the offence,

1. Fined.
 2. Imprisoned for a moneth without baile.
 3. Stand on the Pillory without redemption of money.
 4. Fore-judged for keeping Inne againe.
21. *Jac. c. 11.*

Hedge-breakers.

Breakers and cutters of hedges, pales, railes, or fences, cutters and carriers away of corne growing, robbers of orchards or gardens, pullers up of fruit trees, with intent to carry away, cutters or spoilers of woods, poles, or standing trees, convicted before a Justice of that County where the offence shall be done, by confession, or one witnesse upon oath, are to render such damage as the Justice shall limit; and if not able, to be whipped by the Constable, who for default in his office, is to be committed without baile, till hee cause it to bee done. 43. *Elix. cap. 7. Lan. 302. Dal. 143.*

No Justice to proceed against such trespasses for offences done to himselfe, without assistance of another Justice. *Ibid.*

The second offence is whipping. 43. *Elix. cap. 7.*

High-waies.

One Justice may cause high-ways to Markets to be enlarged, and cleansed of bushes and trees. 13. *E. 1. c. 5. Dal. 67.*

Every Justice may present upon his own knowledge in open generall Sessions, any high-waies insufficiently repaired, or any default against the Statute, 2. & 3. *P. & M. c. 8. & 5. El. c. 13.* and such presentment is as good as the presentment of twelve men; and thereupon the Sessions may asseesse the same, though the presented be absent, saving to the offender his traverse. *Dal. 67. Cro. 125. b. 195. a. m. 5.*

*The defaults contrary to these
Statutes.*

1. If the Constable and Church-wardens doe not on Tuesday or Wednesday in Easter weeke call together a number of Parishioners, and chuse surveyors for high-waies.

2. If six daies be not by them then appointed for mending high-waies before Midsummer.

3. If notice be not given by them openly in the Church the Sunday after Easter of the said six daies.

4. If he that hath a plow-land in tillage, or pasture, or draught, doe not for every draught or plow-land send one Cart with two able men to work eight houres of every of the said six daies, 20.shill.

And every other Parishioner having 5. li. in goods, 40.shill. in lands in the subsidie, must finde every day two able men, or lose 10 shill. and every cottage one, or lose 22.pence a day.

But 18.*Eliz.* he that occupieth a plow-land in severall Parishes, only where he dwelleth; and he which hath plow-land in severall Parishes, shall be charged in each Towne, *Dal. 68. Cro. 82.b.*

5. If the carriages be not thought needfull by the surveyours, then two able men for every Cart spared, upon paine to forfeit for every one not sent, twelve pence. 2. & 3. *Phil. & Mar. cap. 8. Cro. 82.b.*

6. If fences, hedges, and ditches next adjoyn- ing to the high-waies be not kept low, scoured, and repaired.

7. If all trees and bushes growing in the high-waies be not cut down by the owner of the

land, upon paine of 10. shill. for every default.
5.El.c.13. 18.El.c.9.

8. If any chosen to be surveyors refuse the office, or doe not execute it, penalty 20. shil. 2.& 3.
P.& M.c.8.

9. If the surveyour doe not within one moneth next after the offence committed, present it to the next Justice, he forfeiteth 40. shil. *5.El.c.13. 29.El.c.5.*

10. If the Bailiffe or Constable who receiveth the estreats, doe not levie the same, or make not a true account and payment of all summes levied to the Constable and Church-wardens, or the Constables and Church-wardens have not employed them upon the high-waies.

If the surveyours doe certifie the next Justice within a moneth, the Justice ought to certifie the presentment at the next Sessions, penalty five pounds.

If the surveyours present not till after the moneth, and the Justices doe certifie it at the next Sessions, it is not good against the offenders.
Dal.70.

Two Justices, one being of the Quorum, may call those to whom the estreats are delivered, to their account, betwixt the first of March and last of April, and compell them to pay all such arrerages as they shall adjudge to the Constables and Church-wardens, or imprison them till payment of such arrerages be made, and call the surveyours, and Constables, and Church-wardens to an account.

All fines at the Sessions for high-waies, shall be levied by estreats indented, sealed, and signed by the Clerk of the Peace, and delivered by him within six weekes after Michaelmas. *Dal.71.* as by Statute is appointed. *vide Statute.*

The

The Bishop, Chancellour, and three Justices of Peace, may examine the bestowing of any money appointed by any Statute for the amending high-waies or Bridges, and call to account the detainer thereof. 14. *Eliz. cap. 5.* 39. *El. c. 18.* *Lam. 366.*

Upon enditement for repaire of bridges in High-waies, there shall be like processe as the Kings Bench useth, or such as the Justices of P. think meet. 22. *H. 8. c. 5.* *Lam. 523.*

High-waies leading from one Market towne to another, shall neither have dike, under-wood, or bush, whereby a man may lurk to doe hurt, within two hundred foot of one side or other; if default be in the Lord, and any robbery be done therein, he must be answerable for it; and the Lord of a Parke must set it two hundred foot from each side from the way, or a sufficient wall dike, hedge, or pale, that the offenders cannot passe. *Dal. 133.*

Homicide.

Homicide is the killing of a man by a man. *Dal. 234.*

It is no difference whether the slaine be alien, denison, or English man, if he lives under the Kings protection. *Lamb. 237.* *Crom. 21. a. nu. 1.* *Dal. 239.*

To kill one attainted of treason, or of felony, or outlawed for felony, or attainted in Premunire, is felony. *Dal. 239.* *Cro. 24. a. nu. 39.* *Stamford 13. quare.*

Homicide is either killing himselfe, *felo de se*, or another.

Felo de se forfeiteth to the King his goods and chattels reall and personall, and his debts due

by specialty. *Dalt.* 240. but no lands, nor blood corrupted. *Ibid.*

His goods are not forfeited till his death. *Ibid.*

Infant, or *non compos mentis* do not forfeit; but a lunatick killing himselfe out of his lunacy, doth forfeit his goods. *Dal.* 240.

Homicide of another is { Voluntary,
Involuntary.

Voluntary is { Murder. *vide* Murder.
Manlaughter.

Manlaughter is when two fight together upon the sudden, without malice precedent, and one of them doth kill the other. *Cro.* 26.a. *Lam.* 248. *Dal.* 247.

Manlaugh- { By chancemedley.
ter is { *Se defen-* { person.
 de do { house and goods.

Manlaughter by chancemedley is felony, but may have his clergy. *Dal.* 247.

One fighting breakes his weapon, a stander by lends him another, whereby the other is killed, it is manslaughter in the lender. *Dal. ibid.* *Cro.* 26.b. *nu.* 12. *Lam.* 252.

Two fighting on the sudden, part, and meet againe, one killeth the other; it is a continued fray. *Dal. ibid.* *Lam.* 250. *Crom.* 23.b. *nu.* 31. & 24. a. *nu.* 36. & 26.a. *nu.* 9.

The servant fighting in his masters defence, though there were malice in the master not told to the servant. *Lam.* 248. so a stranger suddenly taking part. *Lam.* 248. it is chancemedley.

Two that were in malice are reconciled, fall out upon new occasion, and one is killed; it is manslaughter only. *Lam.* 250. *Dal.* 248.

Se defendendo, when one killeth another in the necessary defence of himselfe or his, thereby to save

save himselfe or his possessions or goods, or some other persons which he is bound to defend from perill, and it is either against a felon, as murderer or theefe, or a loyall subject. *Lambert 252. Dal. 253.*

Against a loyall subject, if he be assayled by another man, he must flie so much as he may till he be letted by some wall, ditch, hedge, prease of people, or other impediment, that his necessity of defence may seeme inevitable, and he shall be committed till the time of his triall, lose his goods, and seeke his pardon. *Lam. 253. Dal. 254.* It is not materiall though he strike againe, if before he give any deadly wound he flie to the strait.

“ A man flyeth to a wall, and holding out his
 “ weapon, the other runneth upon it and is slain,
 “ it is *se defendendo* and forfeiteth his goods.
 “ *Dal. 274. Crom. 28. a. nu. 7.* But if he had fallen on the ground and drawne his knife, and
 “ the other fall on it, and killeth himselfe, hee
 “ forfeiteth no goods, for he could not flie, and
 “ the slaine is in a sort *felo de so*. *Ibid. P.R. 122.b.*
 “ *Stan. 16.a.*

Neither is it materiall though there were former malice, unlesse he lie in wait for the other, or agree for the place of fight, or strike the first stroke. *Lam. 253. Dal. 254.*

Or assaulted in his owne house upon a sudden quarrell, and thereby killeth him. *Lam. 254.* but he forfeiteth his goods and must have his pardon of course, except the assylant came with a felonious intent to kill or rob him. *Dal. 254. Cro. 28. a. nu. 6. Lam. 254.*

A man falleth to the ground, there his flying to a strait is not necessary. *Dal. 255.*

An officer or minister of justice, in executing

ting his office being assaulted, is not bound to
flee. *Dal.* 255. *Coke* 9.98.

A servant killing him who robbed or killed his master, so it be done presently or in defence of his masters person or goods, if it cannot otherwise be avoided. *Dal. ibid. Cro. 28. m. 4.*

Forrester, Parker, or Warrener, or any in their company, killing an offender in a Forrest, Parke, or Warren, after hue and crie to keep the Peace, if they yeeld not themselves but flie, or defend themselves by violence, is no felony. *Dal.* 255. *Quare* if there bee no malice in the keeper. *Cro.* 30. b.

In defence of my house and goods, it is justifiable by me, my servants or company, to kill one who attempteth feloniously to murder or rob me in my dwelling house, or in or neare a high-way, horse-way, or foot-way, or burglarily to breake my house in the night. *Dalt.* 254. *Crom.* 27. b. iii. i. *Vide Lam.* 240. of one entring by force in the day, and killing in the dark.

To shoot at him that commeth to burne my
house, is justifiable in me or my servants. *Dal. ib.*
Cro ibid.

In defence of the possession of my goods, I may justifie to beat him that wrongfully taketh them, but not kill him, except he be a thiefe. *Dal. 255. Vide Assault.*

To kill a true man, in defence of house, land, or goods, is manslaughter. *Dalton ibid. Crom. 27. b. iii. 4.*

Involuntary homicide is by { Misadventure,
{ Necessity.

By misadventure is, when a man doing a lawfull act, without any evill intent, killeth a man: this is not felony of death, but he shall have his pardon of course for life and lands, but forfeiteth his

his goods. *Dalton* 249. *Lambert* 254.

A schoolmaster, father, mother, or master correcting moderately his scholar, childe, or servant ; Shooting at pricks, butts, or lawfull mark ; A workman casting tyle, timber, or stone from a house, or any thing from a cart and giving warning, or doing other lawfull thing, and giving warning.

Running at Tilt, or fighting at Barrier by the Kings command.

The killing of a man in doing of an unlawfull act, without evill intent, is felony, as shooting arrows, casting stones into high-waies or other place whither men usually resort. *Dalton* 250.

Fighting at Barriers, or running at Tilt without the Kings command.

Quere if playing at hand-sword, bucklers, football, wrestling, and such like, whereby a man is slain or receiveth hurt, and dyeth within the yeare and day, be felony of death, or may have their pardon of course. *Quere simpliciter* of casting a stone at bird or beast.

A man may be slain by the fall of a house or tree, &c. and killed by a bull, bear, horse, dog, &c. or by some fall which he taketh. *Dal.* 251. if it be through the wilfull default of another, it is felony.

The thing which causeth the death is a *Deodand*, and so forfeited to the King. *Crom.* 31.a. *Dal.* 251.

The forfeiture hath relation from the stroke given.

Deodands are not forfeited till the matter is found on record. *Dal.* 251.

The Jury which findeth the death of a man, must finde and apprise the *Deodand*. It behoveth the

the towne to see it forth-comming; for the Sheriffe shall be charged with the price, and shall levie the same on the towne. *Dal. ibid. Stam. 21.*

If the flaine be under 14. yeares of age, nothing is forfeited as a *Deodand*. *Dal. ibid. Stam. 21. &c.*

Homicide by neces- } Commanded,
sity is } Tolerated.

Commanded.

An Officer doth execution after judgement, according to his warrant; it is not properly Homicide, but justice. *Lam. 234. Dal. 252.*

If the Officer doth not observe order of Law, it is felony in the Officer. *Dal. ibid. Lam. 240. Stam. 13.*

"If a stranger, not lawfully deputed, put to death one condemned to die, it is felony. *Dal. ibid. Lam. ibid.*

"It is not lawfull for the Judge, who condemned him to be put to death. *ibid.*

Tolerated.

One warranted to arrest one endited of felony, upon resistance killeth him. *Dal. ibid. Lam. 234.*

Every private person upon hue and cry to take a felon, if he resist and will not yeeld, may kill him. *ibid.*

Conducters of a felon to the Gaole, upon resistance or flight may kill him. *Dal. 253. Lam. 234.*

A prisoner in the Gaole attempteth to escape, and strike h the Gaoler, he killeth the prisoner; it is not felony. *ibid.*

Rioters, forcible enterers or detainers, that shall resist the Justice of Peace, or other the Kings Officers, and will not yeeld themselves, being flaine,

slaine, it is no felony. *Cro.23.b.nn.28.30.b.158.*
b.Lam.235.Dalt.253.

If an Officer, by vertue of the Kings proceffe, arresting one for debt or trespassse, is resisted, and killeth the resister, it hath beene taken to be no felony, *Dal.253. Cro.24.a.30.b. Quare Cok.lib.4. fol.40,41.*

To kill a true man in defence of house, lands, or goods, is homicide by necessitie. *Dal.254.*

In a'l these former cases there must be inevitable necessitie, that the offender could not be taken without killing. *Dal.253.*

Horses and Mares.

Any Justice may heare and take the claime of the owner of any horse, &c. which was stollen within fixe moneths after the sale thereof, the prooffe to be made by two witnesse upon oath within fortie dayes next ensuing the said claime. *Dal.73.Lam.203.31.Eliz.c.12.*

The Justice of Peace may minister an oath to the buyer what money he paid, *bona fide*, so as the right owner repaying his money may have his horse againe. *Dal. ibid.*

Owner, officer, or ruler of any faire, is to appoint an open place for sale of horses, &c. and a sufficient person to take toll, or lose fortie shillings for every fault, and answer the party grieved. 2.3.*P. & M. c.4.Lam.471.*

The sale of every horse not being according to the stat. in every point, is void. *Dal.73.Lam.472.*

1. The horse must be one houre at the least in the place of the open faire.

2. All the parties to the bargaine being in the faire, must come with the horse to the booke-keeper.

3. The booke-keeper must take perfect knowledge

ledge of the seller and of the voucher, of the Christian name, surname, mystery and place of dwelling.

4. The voucher must know the seller indeed, and declare to the Booke-keeper the Christian name, surname, mystery and dwelling, as well of himselfe, as of the seller.

5. The booke-keeper must make a true and perfect entry of the sellers name and place of dwelling, &c. and of the true price, forfeiture, 31. *El. cap. 12.*

Every contract for a stolen horse out of the faire is void, though it be after booked, *Dal. 74.*

A sale in open market shall not take away the owners property, the buyer knowing that it was anothers. *Dal. ibid.*

All horses, and all other goods are to be sold in such a place or shop as is commonly used for the selling of goods of the same kind, to alter the property. *Dal. ibid.*

A theefe selleth a stolen horse by a false name, and is so entred in the toll-booke; such misnaming, maketh the sale void against the owner. *Dal. 74.*

Horse-bread.

Inholder in a corporate or market town, where there is a common baker that hath bin an apprentice therein seven yeares, may not make horse-bread within his house. 32. *H. 8. 41. 21. Jac. 6. 21.*

Inholder or ostler in a thorow fare towne, being no city, towne corporate, or market towne, being a baker, and one that hath beene an apprentice therein seven yeares, may make horse-bread within his house, 21. *Jac. cap. 21.*

The horse-bread must be sufficient, lawfull, and of due assize, according to the prize of corne, 21. *Jac. 21.*

Penalty

- Penaltie {
1. Fine.
 2. Imprisonment for a moneth without baile.
 3. Stand in the Pillory without redemption of money.
 4. Forejudged for keeping Inne again.
21. *Fac. c. 21.*

Vide In-holder.

Hospitall.

The Bishop and his Chancellour, with two Justices of Peace next inhabiting, may charge the collectors of a revenue of an Hospitall, upon a paine, presently to account and to imploy the surplusage to the use of the Hospitall. *Lam. 356. 14. Eliz. c. 5. 39. El. c. 18.*

Hospitalitie, *vide* Religious house.

House.

1. A mans house is his castle for defence, *Dal. 209.*

2. It protecteth against any arrest at the suit of any subject *ibid.*

3. In some cases it is a priviledge against the Kings Prerogative; for it hath beene adjudged, that Salt-peter men may not digge in a Mansion-house without the owners consent. *ibid. Cok. li. 11. fol. 82.*

Theeves or murderers attempting to rob or murder a man in his house, he may assemble company and kill any of them, and forfeiteth nothing *ibid.*

He may beate him that will enter upon his possession, but may not kill him. *Quare* if he may hire strangers to aide him, or put his ordinary company in armour. *Dal. 209.*

Vide plus Homicide.

House

House of Correction.

House of Correction with implements and backslides fitting for setting on work idle persons, to be erected and provided in a convenient place in every Countie before Michael. 1611. the same to be conveyed over to such as by the greatest part of the Justices of the quarter Sessions shall be chosen to be imployed for setting on worke idle and disorderly persons, on paine of five pound for every Justice of Peace, the one moitie to the informer, the other towards the erecting of the house. 7. *Fac. cap. 4.*

Master of the said house to be appointed by most of the Justices at the Quarter Sessions, next after providing of the said house, who is to set on work, and moderately to correct by whipping or fettering such persons as shall be sent to him. 7. *Fac. c. 3.*

~~---~~ Master of the house of correction giving sufficient security for performance and continuance of his service, is to have yearly such money as by most of the Justices at Q. Sessions shall be thought meet, to be paid quarterly by the Treasurer, or else the master to levie it in such sort as the Treasurer may. 7. *Fac. c. 4.*

Constables shall appeare before the Justices of Peace twice in the yeare, and give account upon oath in writing, under the hand of the Minister, what rogues have beene apprehended, and how many punished. 7. *Fac. c. 4.*

Constables not safely conveying to the house of Correction such as by the Justices of Peace at their meeting for the execution of the statute, 7. *Fac. c. 4.* shall be sent thither, to pay such fine under forty shillings, as by most of the Justices shall be assessed. 7. *Fac. c. 4.*

A woman, having a bastard which may be chargeable

chargeable to the parish, for the first offence to be sent to the house of correction one yeare, for the second offence to be sent to the house of correction, and to remaine there (as aforesaid) till shee finde sureties for the good behaviour, and not to offend so againe, 7. *Fac. c. 4.*

Any able to worke, and threatning to run away, and leave their families upon the parish, upon oath of two witnesses before two Justices of the said division, to put in sureties for discharge of the parish, or to be sent to the house of correction, 7. *Fac. c. 4.*

Master of the house of correction quarterly at the Sessions must yeeld account of such as have beene committed, or is to be fined by most of the Justices, 7. *Fac. c. 4.*

If any committed become troublesome to the countrey by going abroad, or escape without lawfull delivery, the master is to be fined by most of the Justices at the Q. Sessions, 7. *Fac. c. 4.*

All penalties not limited by the statute, 4. *Fac. 4.* shall be paid to the Treasurer, and accounted by him, 7. *Fac. c. 4.*

Vide plus Poore people.

Hunting.

One Justice of Peace, upon information of any unlawfull hunting of Deere or Conies by night, or with painted faces, or other disguising in forrest, parke, or warren, may make wariant to the Sheriffe, Constable, Bayliffe, or other Officer, to take the partie suspected, and to bring him before him, or some other Justice, to examine him thereof; and if he conceale the hunting, or any offender with him therein, the concealement is felony in the concealer, but the truth confessed is but fineable at the next Q. Sessions.

To disobey such a warrant, or make rescoufe thereupon, so that execution of that warrant be not had, is felony. 1. *H. 7. c. 7. Dal. 75.*

The Justice of Peace that taketh examination of the offender for unlawfull hunting in parkes, &c. may after the examination binde the offender to his good behaviour, to the end he be forth comming till the offence and the offender, be lawfully examined. *Dal. 75. 76.*

Unlawfull hunting by three or more will prove a riot. *Dal. 76.*

Any by night or day wrongfully entring into any inclosed ground, kept for keeping of Deere or Conies, and there chasng or killing of them, upon conviction to be imprisoned three moneths without baile, and there to continue till he pay treble damages and costs to be assessed by the Justice before whom he is convicted, or pay to the party grieved ten pound for Deere at the election of the partie grieved, 7. *Fac. c. 13.* and finde sureties for his good behaviour for seven yeeres. 3. *Fac. ca. 13. 7. Fac. c. 13. Lam. 449.*

The partie grieved or the Justices of Peace, upon satisfaction of the partie grieved, and confession of his offence, and that he is sorry for the same, in open Sessions may release the offender of his bond for the good behaviour. 3. *Fac. c. 13.*

The statute, 3. *Fac. c. 13.* doth not punish offenders in parks or inclosed grounds made after the statute, without the Kings license 3. *Fac. c. 13.*

Enquiring, hearing, and determining of offences against the statute 3. *Fac. c. 13.* may be made by the Justices of Peace and Goale-delivery at the Sessions, and they may award processe upon enditements, informations, bills of complaint, or other actions wherein no essoine, &c. 3. *Fac. cap. 13.*

Any

Any not having lands of inheritance in his owne or wives right, of the cleare yearly value of 10.li. or for terme of life of 30.li. *per annum*, or goods to his owne use worth 200.li. keeping Grayhound to course Deere or Hare, except the son of a Knight or Baron of Parliament, or sonne and heire of an Esquire, upon conviction by confession or oath of two witnesses before two Justices of Peace, where the offence is committed, the party apprehended to be imprisoned three moneths without baile, except he presently pay to the Churchwardens where the offence was committed, or party apprehended, 40.shill. to the use of the poore of the said Parish. 1. *Fac. c. 27.*

Any having lands in fee simple or fee taile of 100.li. *per annum*. finding any not having lands of 40. li. *per annum*, nor worth 200.li. in goods, to use any gun, bow, dogs, or engins, for killing of Deere or Hare, except parker or warrener, or owners of either of them, or other grounds inclosed for Deere or Conies, that shall be yeerely worth 40.shil. may take any their guns, bowes, engins and dogs, and keepe them to his owne use, 3. *Fac. c. 13.*

Lay person not having in lands 4.shil. *per annum*, spirituall person a Benefice not 10. li. *per annum*, keeping dogs to hunt, or using ferrets, &c. shall be imprisoned for a yeare, 13. *R. 2. c. 13. Vide Parks.*

Hundred.

Hundred with the liberties therein to be equally taxed by two Justices of Peace, one to be of the *Quorum*, in or neere the hundred, for reliefe of those that are robbed. 27. *Elis. cap. 13. Dal.* 132.299.

The robbed shall not have his action upon the statute of 27. *Elis. c. 13.* except he first withall
spee

speed convenient give notice of the robbery to some inhabitant neare the place hee was robbed.

2. Comence his suite within a yeare next after such robbery committed.

3. He being examined upon his oath within 20. dayes next before such actions brought by one Just. where the robbery was committed dwelling neare to the hundred if he knew the robbers, or any of them.

If he knew any of the robbers before such action, he shall be bound before the said Justice to prosecute the offenders effectually by enditement, or other wise by course of law, *Dal.* 131.

The hundred must answer the losse, if the robbers be not taken within 40. dayes. *Dal.* 131. 299. *Cro.* 179.a. *Vide* Robbery.

A man is slain in the day time out of a towne, and the murderer doth escape, the hundred shall be charged therewith. 299.

Jury of one hundred may present an offence done in another hundred. *Lam.* 399.

“ Robbery in a house doth not charge the hundred, though it be in the day time. *Dal.* 133.

“ Robbery in the night doth not charge the hundred, yet if it be by day-light, though before Sun-rising or after Sun-setting, the hundred shall answer it. *Dal.* 133. *Cok.* l. 7. fol. 6.

“ If upon pursuite, the offenders or any of them be taken, the hundred shall not be charged. *Dal.* 133.

“ If the party robbed take any of the theeves after Hue and Cry made, it excuseth the hundred. *Dal.* *ibid.* *Cro.* 179.b.

“ He which is robbed shall not have his action where one of the felons is taken, but if there be no Hue and Cry the Village shall be amerced, though one of the felons be taken. *Cr.* 179.b. *Vide plus* Hue and Cry. Hue.

Hue and Cry.

For the apprehending of homicides, burglars, robbers, or other felons, hue & cry shall be made, and every man shall follow the hue and crie; and he that doth not, shall be attached to appeare before the Justices of gaol-delivery. It seemeth any Justice of Peace may binde him over by the commission. *Dal. 299. Cro. 179.b.*

Hue and Crie ought to be made from towne to towne, from countrey to countrey, by horse-men and foot men. *13.Ed. 1.c. 12. 27.El c. 3. Dal. 75. Cro. 178.b. 179. 2. b.* otherwise it is no lawfull pursuit to arraign a Felon.

Upon committing of any robbery or felony, the Officer of the town where it was done, ought to send hue and cry to every towne round about him. *Dal. 75. Cro. 178 b. nu. 2.*

Every Just. of P. may cause hue and crie, fresh suit and search to be made upon any murder, robbery, theft, or other felony committed, by force of the first *assignavitimus. Dal. 49. 75. Lam. 185.*

By a false hue and crie to enter into any house with the Constable, to binde and rob the Constable and master of the house in the night, is burglary. *Dal. 257. Cro. 32.b. nu. 24. Lam. 263.*

Vide plus Robbery.

“The inhabitants of any hundred (either
“within the county wherein the robbery was
“done, or in any other county wherein default
“shall be of fresh suit after hue and crie made)
“shall satisfie the moiety of such money as shall
“be recovered against the hundred where the
“robbery was done. *Dal. 132.*

“In levying hue and crie it is necessary to
“give notice of the thing stolne, as horse, &c.
“of the colour and speciall markes: so of the
“theeves

“theeves person, apparrell, &c. to search suspected
 “places, and to take suspicious persons, and
 “bring them before a Justice of Peace to be ex-
 “amined. *Cro.* 178.b.

“If any rayse hue and cry without cause, hee
 “shall be attached for disturbing the Peace. *Cro.*
 “179.a.

Jesuites and Seminary Priests.

ANy Justice of Peace within the county in which any Jesuite, Seminary Priests, or other Priests, Deacons, religious or Ecclesiasticall person shall arrive or land, may within three dayes after take the submission, oath, and acknowledgement of him touching his obedience to the King and lawes provided in cases of religion. 27. *El.c.2. Lam.* 198. *Dal.* 104.

Every one understanding that any such Priest, &c. shall be within any of the Kings dominions, ought to discover the same to some Justice or other superiour officer, within ten dayes after such knowledge, under paine of fine and imprisonment; and the Justice within 28.dayes must give information thereof to one of the privy Councel, on pain of 200.marks. 27.*El.c.2.La.* 198.*Dal.* 104.

Two Just.of Peace of the County where any of the Kings subjects that are no Jesuits, &c.brought up in any Colledge of Jesuits, or in Seminaries, shall arrive within six moneths after proclamation made to that end, may within two dayes after their return take their submission under the oath of supremacy. 1.*El.c.2. 27.El.2.*

To receive Jesuits or Seminary Priests, contrary to the Statute, is felony. *Lam.* 414. 27.*El.c.2.*

Any

Jesuites and Seminary Priests. 133

Any within three dayes after the offence committed, discovering to any Justice of Peace any Recusant, Seminarie, or Popish Priest, or any Masse to have been said (any of them then present there) and by reason of his discovery, any offender be taken & convicted, he shall be freed from the danger of the offence, and have the third part of the forfeiture by such offence. 3. 14. c. 5. Lam. 199. Dal. 106.

Imprisonments, *vide* Prison. **Prison**

Indictments, *vide* Enditements.

Information.

Information against a felon; whether it shall be taken by oath or no is uncertain: but *La. 213, 214, 215, & Dal. 307. & Cro. 194. a. 211. 5.* do best allow it by oath, and so doe divers Judges in their circuits.

No proces can be awarded upon information of a private person, unlesse where the statute particularly warranteth inquirie by information, as the statute of 5. *Eliz. c. 4.* of labourers. 5. *Eliz. c. 21.* of taking of fish, deer, or hawks.

Information of such as bring a felon, must be taken by a Justice of Peace: so much thereof as is materiall he must put in writing within two dayes after the examination. *La. 212. 2. & 3. P. & Ma. c. 10. Dal. 303.*

Two informe against another in matter of felony, and do varie in their tales, *viz.* in the day and place when and where it was committed; such information is not to be credited. *Dal. 303. Cro. 100. 2.*

The bringer of the suspected will not informe, it is meete to bind him over to give evidence. *Da. 206.*

Forme of a recognizance for the informer a-

G

gainst

gainst a felon. *Lamb.* 214, 216.

“ It is not necessary in an information for
 “ the King to receive the statute upon which the
 “ Bill is framed, but to say *contra formam statuti*
 “ *in huiusmodi casu editi & provis.* *Crom.* 104.
 “ *b. nu.* 50. 53.

Informers and Promoters.

Informers compounding for any offence against a penall law, without consent of some of the Courts of Westminster, or willingly delaying or discontinuing a suit, loath 10. pound, and is to stand in the pillorie being convicted thereof at the Quarter Sessions. 18 *El. c. 5.* 27. *El. c. 10. La.* 439, 609. the same to be heard at the Quarter Sessions.

“ All actions for any offences against any
 “ penall statute, shall be commenced in the
 “ County only where the offence was committed,
 “ and upon the defendants pleading *Nihil de-*
 “ *bet*, or Not guilty, the plaintiffs must prove, 1.
 “ the offence, 2. to be done in the county. 21.
 “ *Jac. c. 4.*

“ No officer shall receive, file, or enter of re-
 “ cord, any information, Bill, &c. untill the in-
 “ former hath taken his oath before some Judge
 “ of that court, that the offence was done in the
 “ same county, within a yeere before the infor-
 “ mation or suit. 21. *Jac. c. 4.*

Ingrosser.

Ingrosser is he that by any contract (unlesse by grant of land or tithe) buyeth corne on the ground or other dead victualls, to the intent to sell them again, except buyers of barley or oats, to make malt or oat-meale. Victuallers not fore-
 stallers, Badgers and Drovers not abusing their
 law-

lawfull licence, buyers of forreign commodities, except fish and salt, are excepted. 5. *Ed. 6. c. 14.* 5. *El. c. 12, 13.* *El. c. 25.* *Lam. 451.*

Inne-holder.

Inne-holder taking any thing for litter, or excessively for hay, or above a halfe penny a bushel above the market for oats, loseth foure times the value of the overplus. 13. *R. 2. c. 8. 4.* *H. 4. c. 25.* *Lam. 473.* repealed by 21. *Fac. c. 21.* *Vide plus* Horse-bread.

Inne-holder or Ale-house keeper may be compelled by a Constable to lodge strangers. *Dal. 28.*

Inne-holder that suffereth a non-inhabitant to tippie in his house, shall incur the penalty limited. 1. *Fac. 2. 9.* 1. *Car. c. 4.*

Inne-keeper, taverner, victualler is within the statute. 1. *Fac. c. 9.* 4. *Iac. c. 5.* 1. *Car. c. 4.*

Inmates, *vide* Cottages.

Inrolment.

One J. of P. may joyne with the Clerk of the Peace in taking of an inrolment of an indenture of bargain and sale of lands, &c. lying in the same countie, and either of them is to have 12. pen. if the land exceede not in value 40. shil. a yeere; and if it doe, then 2. shil. 6. pence a piece; and taking above, fined. 27. *H. 8. c. 16. La.* 196, 369, 393, 436.

Issues.

The Sherife that gathereth other estreats of issues then of right are due, forfeiteth 5. marks to the King, as much to the partie. 27. *El. c. 7. Cro.* 201. 2. *Lam. 432.* Forfeitures of issues by jurors are to be levied by Records of execution awarded by the Justices of P. 27. *El. c. 7. Lam. 585.*

Judgement.

Ambiguity arising in judgement betwixt the Justices of Peace, they shall forbear to proceed till the Judges come; but if they will proceed, the judgement is not void, but must be reversed. *La.* 568. The commission it selfe.

Where the statute appointeth a punishment, there judgement must be according to the stat. *Lam.* 570.

Upon trespassse, riots, and such other offences: where no forfeiture is prescribed, judgement is to be taken and ransomed. *Lam.* 570.

Vide plus the severall offences.

Juglers, *vide* License.

Jurors.

Jurors both for enquirie and tryall, ought to be *Probi & legales homines*. *Lam.* 396.

What persons may not be Jurors, and being Jurors make presentments void, unlesse there be twelve besides.

1. Attainted in conspiracie, 2. Attaint, 3. *De-cies tantum*, 4. Subornation of perjury, 5. Con-cealment they be not *probi*, and their presentment void, unlesse there be twelve besides them that are not blemished. *Lam.* 396. 6. Outlawed, 7. Abjured, 8. Condemned in a *Premunire*, 9. Attainted of treason, 10. Felonie, &c. *ibid.* 11. Women, 12. Infants under 14. years of age, 13. Aliens, 14. Clergie-man, *ibid.*

Jurors must be inhabitants or freeholders within the County, to the value of 40. shill. *per annum*, but in Cities and Boroughs to the value of 40. shill. in goods. *Lam.* 396, 397.

Jurors

Jurors for tryall of an indictment within the Countie Palatine of Lancaster must have 5*l*. per annum. *ib.*

Juror 70. years old or decrepit, returned by the Sheriffe must serve if the Justices will; but he may sue the Sheriffe upon the stat. of *Westm. 2. cap. 38. Lam. 397.*

Juror exempted by Charter with these words, *Licet tangat nos*, is to be discharged upon his appearance, but he ought to shew it to the Sheriffe. *ibid.*

When there is want of sufficient Jurors, no exemption can discharge. *ibid.*

Presentment is good though some of the Jurors be allyed to him that procureth the presentment: but it is no discretion in the Justices to suffer any such to be impannelled. *Lam. 398.*

If the particular Juries for the hundred cannot be supplied by those of the hundred, it is better to take *Tales de circumstantiis*, of other hundreds, then to be renewed with a *Tales* from Sessions to Sessions. *Lam. 398.*

Jurie of one hundred may present an offence done in another hundred. *Lam. 399.*

Justices may command the Sheriffe to alter the pannell, and he refusing forfeiteth 20. pound. *ibid. 3 H. 8. c. 12.*

All the Jurors must be sworne, otherwise their presentments are void: but the Record being that all the Jurors were sworn, the presentments are good though all be not sworne. *Lam. 399.*

Juror after he is sworne, upon cause may be removed by the Justices. *Lam. 400.*

Jurie after swearing adjourned to another time, may be then sworne again. *ibid.*

Jurors of enquirie must be 12. but there may be more, and it is best to have them odde. *La. 400.*

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If 12. Jurors doe agree, the residue cannot gainsay. *ibid.*

Juries of enquiry ought not to be committed to a Keeper, nor kept without victuals, nor carried out of the towne, but may be adjourned to another place to give up their verdict. *Lam. 400.*

Jurors which doe wilfully conceale offences presentable, and which be complained of by bill, may be enquired of by persons whereof every one may dispend 40. shill. *per annum*; and such concealment being found within a yeare after, every Juror shall be amerced in open Sessions. *3 H. 7. c. 1. Lam. 400, 401.*

Jurors that discover what they have done, are to be fined. *Lam. 402.*

Juror taking any thing to make a favourable presentment, shall be imprisoned and ransomed. *Lam. 441. Cro. 84. a. 5 Ed. 3. c. 10.*

No Juror to be returned without an addition whereby he may be knowne. *27 El. c. 7. Lam. 432.*

Vide plus Challenge.

Justices of the Peace.

Justices of Peace were created. *1 Ed. 3. c. 15. Dal. 6. Lam. 20.*

Justice of Peace is Judge of Record. *Dal. 7. Cro. 120. a. nu. 1. Lam. 62.*

He may take a recognizance of Peace, which none can doe but a Judge of Record. *Dal. 8. La. 186. Cro. 196. a. nu. 1.*

His warrant is not disputable by the Constable, but it is to be understood when the Justice of Peace hath jurisdiction of the cause. *Dal. 8. Cro. 147. b. Lam. 65, 91.*

His testimony in some cases is of as great force,

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force, and in some cases greater then an indictment of 12. men upon oath, as in the cases of force, ryots, presentments of high-ways. *Dal. 2. Lam. 65.*

The authority granted to Justices of Peace by commission doth determine by death of the King, or at the Kings pleasure. As to be discharged by Writ under the great Seale. 2. By *Superfedeas*. 3. By granting a new commission, and knowledg thereof. *Dal. 11. Crom. 188. a. Lam. 69.*

2. By publishing the new commission at assizes or sessions, or any County Court.

3. By holding open Sessions by vertue of the new commission. *Dal. 11. Cro. 188. a. Lam. 69.*

4. " By accession of another office, as being
" Sheriffe, or Coroner of the County. *Cro. 121.*
" *nu. 13. 14.* but so doth not the addition of a
" greater name of dignity, as Knight, Serjeant at
" Law. *Cro. 188. a.*

Exercising the office of a J. of P. before oath taken, is finable. *Dal. 15. 352.*

Justice of peace hath not authority but in the County where he is Justice. *Dal. 23.*

Justice of Peace is not to meddle with offences done out of the County, except some statute enable him, or some matter of Peace or felony. *Dal. 23. Cro. 126. b. nu. 12.*

Just. of P. is not to intermeddle in any Citie or Corporation, which have their proper Justices. *Dal. 23. Cro. 8. a. nu. 30. 181. b. 189. a. Lam. 47. Cro. 121. a. nu. 20. 1. & 2. P. & M. c. 18.*

Justices of P. ought not to execute their offices in their own case. *Dal. 352. Cro. 68. a. nu. 4.* Yet a J. of P. being assaulted may commit the offender to prison. *Cro. 68. a. Lam. 134. Dal. 352.*

So *Crompt.* thinketh that a Justice of P. may record a forcible entry made upon his owne possesli-

possession, and commit the offender. *Cro. 67. b. 68. a. nu. 4.*

Justice of P. chargeth one that maketh an assault or affray, to keep the Peace; who answereth he will not; the Justice of Peace may bind him to his good behaviour. *Dal. 195.*

Justice of P. must proceed by the prescript of the commission and statute. *Dal. 20.*

Where the Statute referreth the tryall, &c. to the Justice of Peace his discretion, it seemeth he may examine upon oath. *Dal. 22. 155.*

One Justice of P. ought not to bind one to appear at the quarter Sessions, to answer his default committed against a penall law, except the stat. of Labourers. *Lam. 187. Dal. 339.*

Every Justice of Peace is a conservatour of Rivers within his Countrey. *Lam. 189.*

Justice of Peace not giving remedy to the party grieved in a cause that may be heard, determined, and executed by him, upon complaint to the Judges of assize, or the Lord Chancellour, is to be put out of commission by the Lo: Chancellour, and punished according to his desert. *4 H. 7. c. 12. La. 370. Cro. 120. b. nu. 6. Dal. 353.*

One Justice of Peace may command fresh suit, hue and cry, and search to be made by officers and others, after thefts, robberies; enjoin watches for the arresting suspected persons and night-walkers, high-ways to be enlarged, that two Constables be chosen in every Hundred, forbid Fairs and Markets in Churchyards, command all between 15. and 6. to be sworne to the peace, charge the Constable to arrest all such as be suspected to be drawlatches, wasters, or robbers of men. *La. 185.*

Justice of Peace taking bond in his owne name, and not *Domino Regi*, in a cause touching the

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the King, is to be imprisoned. 33. Hen.8. c.39.
Lam. 102. 143.

Justices of Peace at their Sessions are of equall authority. Lam. 385. Vide Cro. 122. a. nu. 33.

Justices of Peace must send his prisoners to the common gaole. La. 133. § H.4. c.10.

A felon is brought before a Justice of Peace upon suspicion, though it appeare to the Justice he is not guilty, yet he may not set him at liberty, but so as he may come to his tryall. La. 233. Dal. 279. 304. 353. Cro. 40. b. nu. 20. otherwise it will prove a voluntary escape in the Justice; for he is not to be delivered by any mans discretion. Dal. 8. Lam. ut supra.

A man is arrested for felony by a Constable or other, who afterwards hath knowledg that there is no such felony done, the opinion of Keble, Comsby, and Serjeant Frowick, was that he might set him at liberty: but if one be killed and another be arrested for suspicion, though after he know the arrested is guiltlesse, or was arrested for malice; he ought not to set him at liberty, but must be delivered by course of law, otherwise it is felonie, Cro. 40. b. nu. 20.

“ Justice of Peace dwelleth, or is in another
“ county, hee cannot cause one to be brought be-
“ fore him out of the county where hee is Justice
“ into another county. Da. 23. Cro. 120. b. nu. 12.

What things Iustices of Peace ought to doe ex officio.

Record a demurrer upon the evidence. La. 539.

Give day to the party to bring in a Record that is before other Justices, which is pleaded by way of justification. Lam. 539.

If thinking an enditement to be void, they
G. 5. have

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have discharged the prisoner, paying his fees; yet (upon change of their opinion) they may stay him any time before judgment. *Lam.* 540.

Justices of Peace ought not to suffer the King to be disadvantaged, if they may lawfully prevent it. *Lam.* 540.

In absence of the Kings Atturney, the Justices of Peace may take issue with one that pleadeth a pardon, that he is one of the parties excepted. *Lam.* 540.

Justices of Peace cannot acquit felons by proclamations; but if no prosecution be, they are to keep them till the coming of the Justices of gaol-delivery. *Lam.* 550.

Justices of Peace may enquire of all manner of felonies at the common law, or given by any statute, and of all manner of trespasses done against the peace of the King, and of such trespasser wherein action of the case will lie for trespass or deceit; for in the end of the writ grounded upon the case, it is contained *contra pacem nostram.* *Cro.* 8. a. 74. 25.

“ Justice of P. shall be punished for conspiring with another to indict a stranger at the Sessions: but not for a thing done by him in Sessions as a Judge. *Cro.* 122. a. 74. 32.

One J. of P. rebukes another; neither he, nor any of his fellow Justices, can commit him, for all are by one authority: and therefore hath no remedy if the King will not remove him; but if one Justice abuse another in open Sessions, it seemes the rest may bind him to the peace. *Cro.* 122. a. 74. 33. 134. b. *Lam.* 385.

Default against the statute 3 H. 6. c. 11. for levying of wages for Knights of the shire are to be heard and determined by enquiry for the King, or action for the party before the J. of P. *I.* 512.

“ Justice

Justice of Peace needs not shew his commission, by which he is made Justice, when he justifieth the doing of any thing as a Justice; for he is Justice of record, and the commission remaineth with the *Custos rotulorum* of the said county, and he is called by the commission in open Assizes and Sessions. *Cro. 120. b. nu. 13.*

Lam. 387.

Justice of Peace hath a Record in his hands, and is discharged of his office, he cannot certify the same without a Writ of *Certiorari* although he be made Justice afterwards. *Cro. 121*

a. nu. 15. & 132. a.

Just of P. may have his action of the Case against him that calleth him *False Justice of the Peace*, it seemeth also that he may be indicted: for they may enquire of all trespasses, where a man may have his action of the case. *Cro. 121.*

a. nu. 23. & 122. a. nu. 29.

Quicquid Justiciarius fecerit de Recordo, ignoranter & pro defectu scientie, non erit pro eo punitus. Sicut accidit de Seneschallo libertatis Abbatis de Crowland, qui colore libertatis de Infangthefe, judicavit hominem mori contra legem: pro eo libertas seisset fuit in manus regis, & nulla poena Senesch. Cro. 121. b. nu. 24.

Justiciarius non potest puniri pro re per ipsum facta judicialiter: sed Officarii, ut Vicomes & alii Officarii de Recordo erunt puniti. Cro. 122. a. nu. 28.

Just. of P. certifieth into the Kings Bench, that such a man brake the peace in his presence, the party shalbe put to his fine without any traverse to the same. *Cro. 132. a.*

Just. of P. who is of the *Quorum*, ought to be resiant within the County where he is Just. of the *Quorum*. 2 H. 5. c. 4. *Cro. 122. a. nu. 34.*

Justice

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“ Justice of Peace was put out of Commission
 “ in *Camera Stellata*, for that he refused to take
 “ surety of the peace of one that came before
 “ him, who offered to find surety of the peace ;
 “ for that the Justice which granted the warrant
 “ was not his friend, and thereupon would not
 “ goe before him for to be bound. *Cro. Jurisd.*
 “ of Courts, 31. b.

“ One Just. of P. upon his view of forcible
 “ detainer may record the same by 15 R. 2. c. 2.
 “ but in case of Riot and Rout, &c. there must
 “ be two Just. of P. with the Sheriffe or Under-
 “ sheriffe. 13 H. 4. c. 7. *Cro. 61. b. nu. 9.*

“ Justice of P. commandeth one upon pain of
 “ 10. li. by his precept, to be at the next quarter
 “ Sessions, and he appeareth not: no *Scire facias*
 “ shall goe forth more then if there had been a
 “ *Subpœna* : but it seemeth that he shall be at-
 “ tached to be at the next Sessions, upon a con-
 “ tempt. *Cro. 123. a. nu. 9.*

“ An affray is made within a Corporate
 “ Towne, whilest the Sessions be held there :
 “ And that Town hath Justices within it selfe,
 “ the Justices of Peace shall not entermeddle
 “ there : but otherwise it is at the Assizes. *Cro.*
 “ 146. b.

Labourers and Servants.

One Justice of Peace may cause all artifi-
 cers and other persons meet to labour by
 his discretion, to work by the day in hay
 and corn-harvest time, or imprison the refusers
 in the stocks for two dayes and one night. 5 El.
 c. 4. *Dal. 77. Lam. 475.*

The Constable refusing to stock them, loseth
 40. s. One

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One Just. of P. under his hand and seale may license labourers in hay and harvest time to goe into another Country to work. *Dal. ibid.*

One Just. of Peace upon complaint may compe'l meet persons to be bound as apprentices to husbandry, or any other art, &c. and for refusall commit them to ward, there to remaine untill they be bound to serve according to the statute. *Dal. 77. 5 Eliz. 4.*

One Justice of Peace may take order betwixt the master and apprentice, for want of conformity in the master, bind him over to the quarter Sessions, where foure Justices, one being of the *quorum*, may discharge the apprentice: and if fault be in the apprentice, inflict due correction, *Dal. 78.* but if the first Justice finde fault in the apprentice, *quære* if he may by 7 *Jac. c. 4.* send him to the house of Correction, as an idle disorderly person, *Dal. 78.*

One Justice of Peace may allow of the cause of putting away of a servant, or of his departure within his terme. *Dal. 79. 5. Eliz. c. 4.*

But an apprentice must be discharged by foure Justices of Peace in open Sessions. *ibid.*

One Justice of Peace may command vagrant persons to prison if they will not serve. *Dal. 81.*

One Justice of peace may make his warrant to attach a servant departing, to be at the Sessions, or may send him to the house of Correction. *Dal. 78.*

Two Justices of peace, upon complaint that a servant departed before the end of his terme (except 1. cause be allowed by one Justice of peace; or 2. at the end of his terme, without one quarters warning before two witnessles; or 3. hath refused to serve for the wages appointed by proclamation, according to the statute; or 4. hath

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hath promised to serve accordingly, and doth not) may examine the matter, and may commit without baile such faulty person till he be bound to serve and continue, and then he is to bee discharged without fee to the gaoler. *Dalt. 79. Lam. 330.*

Two J. of the P. may imprison the master for 10. dayes without bail, and the servant for 21. daies, that giveth or taketh greater wages then are allowed by statute. *Dal. 80. Lam. 330. and the master loleth 5. li. 5. El. c. 4.*

All retainer, promise, or payment of wages, or any other thing contrary to statute, and every writing and bond for the purpose is void. *2. El. c. 4. Dal. 79.*

Two J. of P. may imprison for a yeere or lesse any servant, workman, or labourer, that doth make assault or affray upon his master or any that hath the charge or oversight of them, or of the worke, being proved by the confelsion of the party, or oath of two. *Dal. 79.*

Or the Justices of the Sessions may inflict other punishment.

One Just. may bind the offender to the good behaviour, and so to the next Sessions. *Dal. 79. Lam. 330. & 473.*

Two Justices may compell any woman of the age of 12. and under 40. being unmarried, to serve by the yeare, weeke, or day, for such wages as they shall think meete, or commit her to ward till she be bound. *Dal. 80. Lam. 330, 331.*

The retainer of any to serve in the arts of cloathing, Wool-weaver, Tucke, Fuller, Cloth-worker, Sheerman, Dyer, Hosier, Taylor, Shoemaker, Tanner, Pewterer, Baker, Brewer, Glover, Cutler, Smith, Farrier, Currier, Sadler, Spurrier, Turner, Capper, Hatmaker, Felmaker,
Bowyer,

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Bowyer, Fletcher, Arrowhead maker, Butcher, Cook, or Millar for lesse then a yeere, is void; *5 El.c.4. Lam.473. Dal.79.*

“ No person shall interrupt, deny, let or disturb any free or rough Mason, Carpenter, Bricklayer, Plaisterer, Joyner, Hardhewer, Sawyer, Tiler, Pavier, Glasier, Limeburner, Brickmaker, Tilemaker, Plumber, or Labourer borne in the Realme, or any Denizen, to work in any of the said Crafts, in any City, Borough, or Town Corporate, with any that will retaine him or them, though they do not inhabit, or be free there, upon pain of *5.li.* the one moiety to the King, the other to the Informer. *5 Ed.6.c.15.*

Any unmarried, and under thirty yeeres and married, are compellable to serve in any of the said arts, or to be imprisoned untill they will serve, *5 El.c.4.* upon request of any person using the said trades, except the person be lawfully retained with some other, or have *40. shillings per annum* in lands, or *40. pound* in goods, or some farme in tillage. *Lam.473. Dal.79.*

None retained in husbandry to depart at his time into any other limit, towne, or parish, without testimoniall, on paine of *21. dayes* imprisonment, and to be whipped, if then he brings none; and receiver of such loseth *5.li.* *Lam.474. Dal.85.*

Labourers not working so many houres as they ought, lose *1.d.* an houre. *La.474. 5 El.c.4.*

Servant falling sick, or *non potens corpore*, the master may put him away, or abate his wages. *Dal.84.*

Any taking work by great, and departing unlawfully before the work be finished, loseth *5. li.* and is to be imprisoned for a moneth. *Lam.474. 5 El.c.4.*

Any

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Any taking an apprentice contrary to order of law, or exercising an art not being apprenticeship therein 7. yeers, loseth 10. pound. 5 *El.c.4.* *Lam.475. Cro.83.a.*

Servant departing into another shire, is indicted for it in the County whence he departed; the Justices of P. may award a *Capias* to the sherrife of that shire, whereunto he departed, returnable before themselves. 5 *El. c.4. Lam. 525.*

The sufficiency of the cause of the masters putting away of his servant, or the servants departing from his master within his terme, must be proved at the quarter Sess. *La.610.5 El.c.4.*

Household servant spoileth the goods of his deceased master, and after Proclamation in the K. Bench maketh default of appearance there; it is felony, but not enquirable by the Justices of P. 33 *H.6.c.1. Lam.281.548.Dal.266.*

A man not able nor sufficient to keep a servant, doth retaine a servant; such retainer is void. *Dal.82.*

Retainer of a servant in husbandry without expressing any term, shall be for one yeer. *Cro.184.a.Dal.83.* it is according to the stat. 5 *El.c.4.*

One retaineth a servant for 40. daies, and afterwards another retaineth him for a yeere; the first retainer is void. *Cro.184.a.Dal.83.*

A servant cannot be discharged by his master without his own agreement, or for some cause allowed by a Just. of Peace. *Dal.84.*

An apprentice cannot be discharged by his master but by writing, for an apprentice cannot be but by writing. *Dal.85. Cro.184.b.185.b.*

A servant put away shall have his proportionall wages for the time he served, but it must be by the help of a Justice of Peace. *Dal. 84.*

A servant of his own accord departing from his

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his service, loleth all his wages. *Dal. 84.*

A servant refusing to doe his service, it is a departure in law, though he stay still with his master. *Dal. 84.*

Detaining of wages, or of meat and drinke, is good cause of departure, but to be allowed by a Justice of peace. *Dal. 84. Cro. 185. b.*

A woman married after shee is retained, must serve out her time. *Cro. 184. b. Dal. 82.*

No servant in husbandry, artificer, or victualler, nor any labourer shall carry any buckler, dagger, or sword, on pain to forfeit the same, but for defence of the Realme, or travelling with their master, or about their masters businesse. 12. R. 2. c. 6. *Cro. 185. b. 76. b.*

Any two Justices of peace may give their consents with the Church wardens and overseers, or to the greater part of them, to bind as apprentices the children of poore parents, till the age of the man-child of 24. and of the woman till 21. 39. El. 3. Lam. 33 1. 43. El. c. 2. *Dal. 85.*

Retainer according to statute, though no wages be spoken of, is good, and shall have wages according to the proclamation. *Dal. 84.*

Retainer not being according to statute, is void, except it be by Indenture. *Dal. 84.*

Retainer upon condition is good. *Dal. 84.*

Retainer without expresting in what office, is good. *Dal. 84.*

Retainer for life is good. *Dal. 84.*

Retainer for a yeere to serve when he shall be required is not good. *Dal. 84.*

By retainer the servant is presently in service, though he come not into his masters service indeed. *Dal. 84.*

The executor (the master dying) must pay wages to the servant hired according to statute,

150 Labourers and Servants.

ute, not otherwise, except it be by Indenture.
Dal. 84.

Larceny.

Larceny is the felonious and fraudulent taking another mans personall goods, removed from his body and person, without his will, to the end to steale them. *Lam. 272. P.R. 129.*

Personall goods are { Wholly ano- { Dead,
thers, { Alive.
His own, yet also a pro-
perty in another.

In their owne nature chattels, as money, plate, household-stuffe. *Lam. 272.* wool severed from the sheeps backs, to take the skin and leave the body, the flesh of tame or wilde fowle or beast. *La. 175.* goods of the Church, Dead goods, { Parish, or of an unknowne person. *Lam. 276.*

Once no chattels, and made chattels by the owner, as mowed corne, mowed hay, wood felled, apples gathered, &c. *Lam. 276.*

Alive, { Tame, as horses, beasts, sheep, swine, pullen. *Lam. 273, 274.*
Wilde, and made tame by { Art,
of liberty.

By art, { A tame Deere by common law, *Lam. 274.*
as { By statute a falcon, targelet, lanner, lanneret, lost without bringing it to the Sheriffe to be proclaimed. *Lam. 274.*

By restraint of their liberty, as yong pigeons, yong

yong herons, yong hawks out of their nests, fish in a trunk, stew, or pond. *Lam. 274.*

Where he hath given a speciall property to another, as by bailment, pawning, &c. and feloniously taketh it againe. *Lam. 277. Dal. 270.*

Where one comming lawfully to the possession, by lending altereth the property, as by melting of borrowed plate, and the lender taketh the metal feloniously. *Lam. 277. Dal. 270.*

In what goods Larcenie cannot be committed.

In goods of { Profit,
Pleasure.

Goods of profit, as where is { An owner: & they are { Reall,
Personall.
No owner, as treasure trove, wrecked, strayed. *Lam. 276.*

Distinct from the Free-hold, as charter of land or a ward. *Lam. 275.*

Reall are { Annexed to the freehold, as apples on the tree, a tree growing, lead from a house or from a Church. *Lam. 276.*

Personall, as wild things using their wildnesse, as pigeons flying, hawks not reclaimed, fishes in the river, *Lam. 274.* pheasants, partridges, hares, conies, herons, swans, or deere that are abroad. *Lam. 275. Dal. 270.*

Goods of pleasure, as dogs, apes, parrats, singing birds, a diamond, rubie, or other stone not set in gold or silver. *Lam. 275. Dal. 269.*

Larcenie is { Grand larcenie,
Pettie larcenie.

Grand larcenie is, where the thing stollen is above the value of 12. pence, and is punishable by death. *Dal. 262.*

Pettie larcenie, if the thing stollen exceed not 12. d. and is punishable by the discretion of the Justices before whom he is arraigned, and forfeiteth his goods. *P.R. 129. Dal. 262.*

Divers pettie larcenies put in one indictment, and above the value of 12. d. are punishable by death. *P.R. 129. Lam. 273. Dal. 263.*

Divers found guilty of one larcenie above 12. d. they all must die for it, for that felonie is severed in law, even as those others were severed in act. *Lam. 273. Dal. 263.*

What acts doe amount to larcenie.

To carry away the plate delivered to me in a Taverne to drinke in. *Lam. 278. Cro 35. b. nu. 4. Dal. 263.*

To carry those things one is hired to carry, to another place then he was hired, and there feloniously to convert them to his owne use. *La. 279. Dal. 264. Cro 36. a. nu. 10.*

A servant not being an apprentice to goe away with the goods of his master above 40. shil. which were in his custodie. *Lamb. 279, 280. Dal. 264.*

Carrier to convey away or convert to his own use the goods after they are brought to the place appointed by the owner. *Dal. 264. Lam. 279.*

He to whom the key of ones chamber doore is delivered, openeth the doore and taketh away the goods. *Lam. 279. Dal. 266.*

A servant receiving 20. pound in gold of his master

master to keepe, changeth it into silver, and runneth away with it; for gold and silver are both of one nature, viz. money. *Dal. 265. Cro. 50. 2.*

Lam. 280.

A guest is harboured, who carrieth away his sheets out of his chamber, with purpose to steale them; and is taken in the house. *Da. 266. Cro. 35.*

a. nu. 2. Lam. 281.

One servant runneth away with the goods of his master delivered unto him by his fellow-servant to the value of 40. shil. or converteth them to his own use. *Dal. 265. Cro. 50. a. Lam. 281.*

A carrier embezels part of the goods committed to his charge. *Dal. 264. Cro. 36. a. nu. 11.*

A servant receiveth of his master a piece of cloth to keepe, and he maketh a garment thereof, and goeth away therewith. *Cro. 50. a. Dal. 265, 266.*

A servant taketh away or spoileth the goods of his deceased master; upon default of appearance in the Kings Bench after proclamation, it is felony. *Dal. 266. 33. H. 6. c. 1. Lam. 281.*

Taking an horse feloniously, and apprehended before he get the horse out of the close. *Lam. 282. Dal. 267.*

The husband shall not be punished for theft done by his wife, he not knowing thereof, or if after knowledg he presently forsake her and his house. *Lam. 282.*

*What acts doe not amount
to larcenie.*

One having goods bailed unto him, converteth them all to his own use. *Cro. 36. a. nu. 11.*

A carrier converteth the goods to another place then he was hired, and there converteth them

them to his own use. *Lam.* 278. *Dal.* 264. *Cro.* 36. a. nu. 11.

An obligation or wares delivered to a servant, who receiveth the money or selleth the wares, and runneth away with the money. *Dal.* 265. *Cro.* 35. b. nu. 50. a. *Lam.* 280.

A wife stealeth goods in the company of her husband, or by his command; *quere* if it be without his compulsion. *Lam.* 282. *Dal.* 272.

A wife stealeth the goods of her husband, and delivereth them to another that knoweth thereof, it is larcenie in neither. *Lam.* 282. *Dal.* 272.

Goods stollen by an infant under 12. a lunatick during his lunacie, a mad man, and deafe & dumb. *Lam.* 282. *Vide Dal.* 273.

Riding away with a lent horse. *Dal.* 264.

A clothier delivereth wool or yarne to his workfolks, who embezell or sell part thereof. *Dal.* 164.

Goods delivered to another to keepe, and hee consumeth them, or converteth them to his own use. *Dal.* 264. *Lam.* 278.

So money or goods delivered to one to deliver to a third person, and the first receiver fleeth away with them, or converts them to his own use. *Dal.* 264.

A servant hath a horse delivered by his Master to ride to market, or money to goe to a faire to buy cattell or other, or to pay to another man, and the servant goeth away therewith; *quere* if it bee felonie by statute. *Dal.* 265.

A receiver receiveth his masters rents, and goeth away with them. *Dal.* 266. *Cro.* 50. a.

3. Leather.

Butcher that gatheth, slaughtereth, or cutteth

teth the hide of the ox, steer, bull, or cow, where-
by it is impaired, loseth 20. pence; or that wate-
reth any hide, except in June, July, or August,
or putteth to sale any putrified or rotten hide,
loseth for every hide 3. shil. 4. pence. *1 Jac. 22.*
Lam. 462.

Butcher using the said craft and also the myste-
rie of tanner, loseth every day 6. shil. 8. d. *ibid.*

Tanner using also the mysterie of a shoema-
ker, currier, or any artificer using the cutting or
working of leather, loseth the hides and skins tan-
ned. *ibid.*

Every person, other then such as had a tan-
house 29. *Martii 1603.* and did then occupie
tanning of leather, or hath been taught as an
apprentice or hired servant 7. yeares in that
mysterie, or hath beene wife or son of a tanner
brought up in this mysterie 4. yeares, or the
son or daughter of a tanner, or such as hath mar-
ried the wife or daughter of a tanner, having left
to them his tanhouse and fats, that tanneth any
leather, or taketh any profit by tanning, loseth all
the leather tanned by him. *La. 462, 463. 1 Jac. 22.*

None may buy, contract for, or bespeak any
rough hides or calves skins, but onely tanners or
tawers of leather, except salt hides for the neces-
sary use of ships, on paine of 6. s. 8. d. for every
hide. *1 Jac. c. 22. Lam. 463.*

None shall forestall any hides comming to
faire or market, (except of such as kill for the
provision of their house) on paine of 6. s. 8. d. for
every hide. *1 Jac. c. 22.*

None may buy tanned leather nor wrought,
but such as will convert the same into made
wares, (except necks, and shreds of sadlers and
girdlers) upon losse of all the leather. *Lam. 463.*

1 Jac. c. 22.

Tanner

Tanner suffering any hide to lie in the tan-limes till the same be over-limed, or that putteth any hides into the tan-fats before the lime be perfectly wrought out of them, or useth any thing in tanning but onely Ash-bark, Oak-bark, Tapwert, Malt, Meal, Lime, Culver-dung, or Hen-dung, or hath suffered his leather to be frozen, or to be parched with the fire or summer sun, or hath tanned any rotten hides, or hath not suffered the hides for outward sole leather to lie in the woozes twelve moneths, and for the upper sole leather nine moneths, or hath negligently wrought the hides in the woozes, or hath not renewed their woozes as oft as was requisite, or hath put to sale any tanned leather, not wrought according to the statute, shall lose the hides, or value of them. 1 *Fac. c. 22. Lamb. 463, 464.*

Tanner that raiseth without any mixtures any hides to be converted to backs, bend-leather, clouting-leather, or any other sole leather, except the same be fit and sufficient for that use, loseth the hides. 1 *Fac. c. 22. Lam. 464.*

Any that putteth to sale, exchangeth, or otherwise departeth with any tanned leather red and unwrought, being in open faire and market, unlesse it be searched and sealed in some open faire or market, or putteth to sale any leather not seached and sealed according to the statute, loseth for every hide or piece of leather 8. s. 8. d. and also for every twelve calves skins or sheep skins 3. s. 4. d. and also the hides and skins or their value. 1 *Fac. c. 22. Lamb. 464.*

Tanner putting to sale any leather insufficient, or not thoroughly wrought and tanned, or not well and thoroughly dried, and the same so found by the tryers appointed, 1 *Fac. c. 22.*
loseth

loseth so much as is insufficient. *Lam. 464.*

He that setteth his fatts in tan-hills or other places, where the woozes or leather to be tanned in the same, may take any unkind heats, or hath put any leather into warme woozes, or hath tanned with warme or hot woozes, forfeiteth 10. pound, and is to stand in the pillorie three market dayes. *1 Jac. c. 22. Lam. 464.*

Felling oaks meet to be barked, where barke is worth 2. shillings a load, above the charges of barking and pilling, (timber for necessary buildings, and reparations of ships, houses, or mills excepted) but between the first of April, and the last of June, loseth every tree or double the value. *1 Jac. c. 22. Lam. 464, 465.*

Currier that currieth any leather but in his owne house situate in a corporate or market town, or hath curried any leather not well tanned or not thoroughly dryed after his wet season, or hath used in such wet season any deceitfull means to corrupt the same, or hath curried any outward sole leather with any other stuffe then hard tallow, or lesse of that then the leather will receive, or inner sole leather, or upper leather but with good stuffe being fresh and not salt, or hath not liquored them thoroughly, or hath scalded or shaven too thin, or gash in shaving or otherwise, or not wrought sufficiently any leather, loseth 6. shillings 8. pence, and the value of every skin marred, except gashing in shaving, and for such gashing double as much as the leather is impaired. *1 Jac. c. 22. Lam. 465.*

Currier that during the time that he useth currying, useth the feat of a tanner, cordwainer, shoemaker, butcher, or other artificer, using currying of leather, loseth 6. s. 8. d. each hide. *ibid.*

Currier refusing to currie within 8. dayes in

summer and 16. dayes in winter perfectly any leather brought by any curter of leather, or his servant, bringing with him good stufte, for perfect liquoring of the same, loseth 10. shil. for every hide.

Shoemaker that maketh any Boots, Shoes, Buskins, Startups, Slippers, or Pantofles, or any part or them of English leather wet curried, (other then Deere, Calves, or Goats skins, dressed like Spanish leather) but of leather well tanned and curried, or well tanned only, and well sewed with threed well twisted, waxed, and rosined, with the stitches hard drawn with hand leathers, without mixing neat and calves leather in the over leather thereof; or hath put into any shooes, boots, &c. any leather made of sheepskins, bull-hide, or horse-hide, or into the upper leather of any shooes, slippers, or pantofles, or into the nether part of boots (the inner part of the shooes onely excepted) any part of the womb, shank, neck, flank, pole, or cheeke of any hide, or into the outer sole other then the best of the oxe or steere hide; or into the inner sole other then the necks, womb, pole, or cheek; or in trefswels of the double soled shooes other then the flanks of any of the said hides; or hath put to sale any yeare betweene the last of September and the twentieth of Aprill any shooes, boots, &c. meete for any person above foure yeares old, wherein hath beene any dry English leather, other then calves or goats skinnnes dressed like Spanish leather; or hath shewed for sale any of his wares upon Sunday, loseth 3. shil. 4. pence for every paire, and the just value. *1. Jac. cap. 22. Lam. 465, 466.*

Every Lord. of faire or market, that doth not appoint and sweare yearly, two or three honest

honest and skilfull men to be searchers and sealers of leather there, and sixe honest and expert men to try the same leather, loseth 40. pound. *La.* 466. Such tryers as doe not their duties therein without delay, lose 5. pound for every default. *Lam.* 467.

Searcher or sealer so appointed, refusing with speed to seale good leather, or allowing insufficient leather, loseth 40. shil. or receiving any bribe or exacting any undue fee for execution of his office, loseth for every offence 20. pound, or refusing to execute the said office being duly elected, loseth 10. pound. *Lam.* 467.

He that will not suffer a searcher to enter into any place to search tanned leather, or wrought wares, or to seize or carry away that which is insufficient, or hath put away any tanned leather red and unwrought, without registering the same and the price thereof, loseth the value of the leather. *Lam.* 467. *1 Jac.* 6. 22.

Leets.

Steward of a leet cannot grant surety of the peace unless it be by prescription; but he may commit him to ward that shall make an affray in his presence, whilst he is in execution of his office, or binde him to the peace, or to his good behaviour. *Lam.* 14.

He may also take presentment of an offence against the peace. *ibid.*

“ In every leete or market, there ought to be
 “ a Pillorie and Trumbrel, and for want thereof
 “ the Lord of the Leet or market shall make a
 “ fine to the King. *Dal.* 151. *Cro.* 149.

Lent, vide Fish dayes.

Liberties and Franchises.

“ Liberties and Franchises, be such which have
 “ return to Writs, and not such as are Count-
 “ ties of themselves, as London, York, Norwich,
 “ &c. nor townes which have by grant of the
 “ K. Justice of Peace, so that no other Justice do
 “ intermeddle. *Cro. 8. a. nu. 30. Dal. 23. 2. & 3. P.*
 “ & *M. c. 18.*

Justice of Peace may execute his authoritie
 within any liberties, not being a countie within
 it selfe, and it is good, but the liberty may have
 their remedy against him. *Lam. 47, 48. Dal. 23.*
Cro. 8. a. nu. 30. 181. b. 189. a.

Libellers.

A man finding a libel against a private man,
 must presently burne it, or deliver it to some
 Magistrate. *Dal. 195.*

If against a magistrate or publique person, to
 deliver it to some Magistrate, that by examination
 the author may be found out. *Dal. ibid.*

Libellers (it seemeth) may be bound to their
 good behaviour as disturbers of the peace, whe-
 ther they be contrivers, procurers, or publi-
 shers of the libels; for such libelling & defamation
 tendeth to the raising of quarrels, and effusion of
 blood, and speciall occasions to the breach of the
 peace. *Dal. 194.*

Libelling is by scandalous writings, by book,
 ballad, epigram, or rime; 2. by scandalous
 words, as scoffes, jests, taunts, or songs; 3.
 by hanging up of pictures, or signes of reproach
 neere the place where the partie traduced
 doth converse most, as gallows, cucking stoole,
 pillorie, horns, or such like. *Dal. 194. Cook 5. fo.*
125.

Licenses.

Licenses.

Two Justices of Peace may license poore diseased persons to travell to the Baths for remedie of their grieffe, so as they be provided of reliefe for their travail, and beg not. 39.*Eliz.c.4.* *Dal.101.Lam.332.1Iac.c.25.*

Just. of P. dwelling neere where any person having suffered shipwrack shall land, may and ought to make a testimoniall under his hand to such persons of the landing, &c. and thereby to license them to passe the next direct way to their place of birth or dwelling, and limit them convenient time for their passage. *Dal.100.127.La.303.39.El.c.4.39.El.c.17.1Iac.c.25.*

No Justice or Justices of peace (as it seemeth) can in any cause license any poore man to wander, or beg at all. *Dal.101.127.La.303.39.El.4.c.17.*

Convicted for abusing of a license of transportation of victuall shall be committed for a yeare without bail or mainprise. *Lam.349.1.&2.P.&M.c.5.*

Licences for badgers, drovers, &c. are to bee granted in open *Qui Sessions* by three Justices of P. whereof one of the *Quo.* and shall not endure above a yeere, unlesse the same be yearly renewed. 5.&6. *E.6.c.14.5.El.c.12.Lam.610.Vide Badgers.*

Linnen cloth.

He that causeth to be used any racking, beating, or casting any deceitfull liquor, or other meanes on any kind of linnen cloth, whereby it becommeth deceitfull, or the worse for use, forfeiteth such cloth, and is to have imprisonment for a moneth at the least, and to be fined according

ding to the Justices discretion. 1 *El.* 12. *Civ.* 90. a.

Lying in a way, *vide* Way-lying.

Log-wood, *alias* Block-wood.

Suspected to have offended against the statute for log-wood, upon information to a Justice of P. the suspect or his servant or workman may be called by warrant, and examined by oath or otherwise to disclose the offence; and the offence being discovered, the offender and the examines shall be bound over to the next gaol-delivery or Qu. Sessions, and there be judged to forfeit 20. pounds, and pillorie one or more market dayes, or upon refusall to be bound to be committed to the gaol, till he will be bound, 39 *El.* c. 11. *Lam.* 613. *Dal.* 48.

Any two Justices of the Peace, where any log-wood shall be found, in whose hands soever it shall be, may cause the same to be burned. 23 *El.* c. 9. *Dal.* 48. *Civ.* 198. b.

Long bowes.

“ Any above the age of 24. yeeres shooting at
 “ standing pricks under eleven score yards with
 “ any prick shaft or flight loseth 6. shillings 8.
 “ pence. 33 *H.* 8. c. 9. *Lam.* 481.

Masons.

THe causing of Masons to congregat themselves in chapters, is felonie. *Lamb.* 227.
 3 *H.* 6. c. 1.

Mainprise, *vide* Baylement.

Main-

Maintainers and Embraces. 163

Maintainers and embracers of a Jurie enquiring of a riot, forfeit 20. li. and to be committed to prison, and to remain according to the discretion of the Justices. 19 H. 7. c. 13.

The Justices which shall sit upon the inquisition of riots with the sheriffe or undersheriffe, ought to certifie the names of the maintainers and embracers of a Jurie, with their misdemeanours which they know, by which the truth of the said riot is not found, upon paine of 20. li. for every one that hath not a reasonable excuse. 19 H. 7. c. 13. Cro. 199. b.

Maintainers of quarrels and embracers of Jurors are to be imprisoned, and bound to the good abearing. 33 H. 8. c. 10. 33 H. 8. c. 7. L. 4. 440.

Maintenance is where any man giveth or delivereth to another that is plaintife or defendant in any action, any thing to maintain his plea, or else maketh extreame labour for him where he hath nothing to doe therewith. *Term of Law.*

Embracer, is he that when a matter is in tryall between partie and partie, commeth to the barre with one of the parties, having received some reward so to doe, and speaketh in the case, privily laboureth the Jurie, or standeth there to survey or overlook them, thereby to put them in fear and doubt of the matter: but men learned in the law may speak in the case of their Clients. *Terms of the Law.*

Maim.

He that hath maimed another of any member, whereby he is lesse able to fight, as if a bone be taken out of the head, or a bone broken in any part of the body, or foot, or hand, or finger, or joynt, or if a foot or any member be cut, or by some wound the sinews be made

H 4

shrink,

shrink, or other member, or the fingers made crooked, or if any eye be put out, or the fore-teeth broken or beat out, or any other thing be hurt in a mans body, by meanes whereof he is made the lesse fit to defend himselfe, or offend his enemye, he and his accessaries shall be grievously fined. *Lam. 429. Term. of Law*

Justices of P. cannot upon an indictment of maim, make the tryall by their own view and inspection, as the J. of the K. Bench may doe. *Lam. 532.*

If Justices of peace stand in doubt whether the hurt be a maim or no, they may use the help & opinion of some skilfull Chirurgeon to consider thereof. *Terms of Law.*

“Indictment of maim must be felonice machinavit. *Cro. 101. a. nu. 3.*

Malt.

If any Baliffe or Constable of any borough or other towne shall finde any malt made contrary to the statute, 2. & 3. E. 6. 18. & 27 El. 14. then with the advice of any Just. of the P. within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices, under the common price of the market, as to their discretion shall seeme convenient. *Lam. 202. Dal. 86. 21 Iac. c. 28.*

Any two Just. of P. may duly convict by two witnesss, or by the parties confession, any person that shall disobey the restraint of malting made in open Qu. Sess. and shall commit him to Prison without bail or mainprise for 3. dayes, untill he become bound in forty pound to performe such restraint. *39. El. c. 16. Ia. 332, 202. Dal. 86.*

The Justices of Peace or the greater part of them, may in open Quarter Sessions restrain the

the converting of barley into malt. 39. *El. c. 16. Lam. 613. Dal. 86.*

Malt must be 3. weekes in the farr, on the floore steeping and drying, except in June, July, August, and then 17. dayes, or lose 20. pence for every quarter. *Lam. 451. Dal. 87.*

No insulficient malt mingled with good malt must be put to sale. 2. & 3. *E. 6. c. 16. & 27. El. c. 4. Lam. 452. Dal. 87.*

No malt shal be put to sale that is insulficiently trodden, and out of which for every quarter hath not been fanned one peck of dust. *ibid.*

Manslaughter, *vide* Homicide.

Mariner.

Mariner comming from beyond the seas, or a seafaring man having suffered shipwrack and in want, may be licensed by the next Justice of P. to his landing, to aske reliefe in his journey homewards. 39. *El. 4. Lam. 303. Dal. 127. 1 Iac. cap. 28.*

No fisher man to be taken for a mariner by the Kings commission, unlesse chosen by the two next Justices to the place where he is to be taken. 5. *El. 5. Lam. 359. Dal. 87.*

Mariner departing from his captain without licence, or wandring idly without or with a forged licence, knowing thereof, is a felon. 39. *El. 17 Lam. 227.*

Any poore Mariner or Souldier comming from beyond the seas, that shall repaire to his place of birth, &c. and cannot there get worke, two Justices of the peace next adjoyning may take order to set him to worke, and for want of work taxe the whole hundred for his reliefe, till sufficient work may be had. 39. *El. c. 17. Lam. 359. Dal. 138.*

“ Mariner forging a Testimoniall, or carrying the same, knowing it to be forged, it is felony. *Lam.* 228. *Dal.* 289. 39. *El.c.* 4. & *c.* 17. *F. a.* *c.* 7.

“ Marriner landing and not having a Testimoniall under the hand of some Just. of the P. neere the place of his landing, setting downe, 1. the time and place of his landing, 2. the place to which he should passe, 3. and the time for his travail, 4. or exceeding that time 14. dayes, it is felony. 39. *El.c.* 17. *Dal.* 289. *Lam.* 303. But if he have such a Testimoniall, and pursue the same, he may ask and take such necessary reliefe, as shall be given him. 39. *El.c.* 17. *Lam.* 303.

Wide Felony by Statute.

Market overt.

He that is owner, &c. of any faire or market where horses, geldings, mares, or foales are to be sold, & doth not yearly assign one open place where the said horses, &c. shall be sold, and one to take Tol, who shall continue there from 10. in the morning untill sunset, forfeiteth 40. shil. for every day. 2. & 3. *P. & M.c.* 4. *Cro.* 91. *a.* *Lam.* 471.

To alter the property of any strangers rights in horses and all other goods, they are to be sold in such a place or shop as is commonly used for selling goods of the same kind. *Dal.* 74.

Sale in faire or market doth not take away the owners property, the buyer knowing that it was anothers. *Dal.* 74.

Wide Horses.

Marriage.

If any married person marrieth another, the former wife or husband being alive, except the

the husband or wife have beene beyond the seas seven yeares together, or hath been absent within the Kings dominions 7. years together, the one not knowing the other to be alive, or was at such marriage lawfully divorced, or the former marriage by sentence ecclesiasticall declared to be void, or was had within years of consent, it is felony. 1 *Iac.* 11. *Lam.* 421. *Dal.* 289. *Cro.* 52. a. without corruption of bloud, losse of dower, or disinheriting any heire.

Masse.

To sing masse, forfeiteth 200. marks, & a years imprisonment; To heare it, forfeiteth 100. marks, and like imprisonment. 23 *El.c.* 1. *Lam.* 413.

For the discovery of any who hath been at Masse, *vide* Jesuites.

Master, *vide* Servant and Labourers.

Measure, *vide* Weight.

Messages false.

Two J. of P. one being of the *Quorum*, may (as it seemeth) binde over to the next Quarter Sessions any suspected of getting money or other thing by false tokens or counterfeited letters, or may imprison such, or baile them to the next Qu. Sessions. *Dal.* 47. 33 *H.8.* c.1. *Vide plus* Cozenage.

Milch Kine, *vide* Calves.

Minstrels, *vide* Rogues.

Misprision.

Misprision is properly, where one knoweth that another hath committed treason, or felony, but was not consenting thereto, and will not discover the same to the K. or his Councel, or to some magistrate, but conceals the offence. *Dal.* 234. *Stam.* 37. *T. of Law*, 131.

A Chaplain fixed an old seale to a new Patent of non-residencie, it was holden misprision of Treason. *Term of Law. ibid. Dal. 229.*

Knowing money to be counterfeit, and bringing it out of Ireland into England and uttering it in payment, is misprision of treason. *Term of Law, ibid. Cro. 44.b. Stamf. 38. 3 H. 7 10.*

For misprision of felony he shal only be fined. *Dal. 234. Term of Law, ibid. Cro. 44.a.*

Misprision of Treason.

To draw a sword, or strike a Justice sitting in place of judgment. *Dal. 231.*

To strike a Juror in presence of the Justice sitting in place of Judgment. *Dal. ibid.*

To strike one in Westminster hall, any of the Kings courts sitting. *Dal. ibid.*

In all which cases the offender shall lose his right hand, and shall have judgement as in misprision of Treason. Dal. 234.

A stranger rescuing one arrested by a Justice upon an affray sitting in place of justice, wherby he escapeth, is misprision of Treason. *Dal. 231.*

For offenders in high treason, misprision of Treason, *Premunire*, though J. of P. cannot meddle in the very point of the offence, yet upon complaint to a Just. of P. or other knowledg, he ought to cause the party to be apprehended, and joyning with some other Justice of Peace, to take the offenders examination and information upon oath of such as bring them, or other that can prove any thing materiall, and put it in writing under the hands of the informers, and commit the offenders to gaole, and bind over those which prove any thing materiall to appeare before the Lords of the Council, or elsewhere to give evidence upon reasonable warning, and to

cet-

Misprision of Treason. 169

certifie their doings to some of the Lords of the Councell or elsewhere. *Dal.* 235.

Willingly to aid and maintain, or knowing such as have absolved, perswaded, or withdrawn any within the Kings dominions from their obedience, or Religion now established, to the Romish Religion, or moved them to yeeld obedience to any other estate, or practised to do any of them, and doth not within 20. dayes disclose it to some Just. of the P. or higher officer, it is misprision of treason. 23 *El.c.1. Lam.* 412.

Within 6. weeks after any Bull or other instrument of reconciliation hath been offered, not to reveale it to some of the Privie Councel, or Presidents of the North, or Wales, is misprision of treason. 23 *El.c.1. Lam.* 413.

Misprision of Felonie.

He that seeth one killed by another, or robbed, or any other felonie committed, and is not of their confederacie, and doth not make resistance, and disturb the felon, or levie hue and cry, but conceale the same, it is misprision of felonye and fineable. 14 *H. 7. c. 31. Crom.* 44 *Dal.* 296.

A man fore-knoweth of a felony to be done, and concealeth it, and is effected; it is misprision of felony *quare Cro.* 41. b. nu. 5. *Dal.* 298.

“ Every treason or felony doth include misprision, so that wheré any hath committed treason or felony, the King may cause the offender to be indicted & arraigned but of misprision, *Cro.* 44 b. *Dal.* 234. *Stamf.* 37. d.

Mitigation of fines and forfeitures,
vide Lamb. 557.

Mittimus.

Mittimus.

Mittimus must contain the names of the parties, their offences, and time of imprisonment, that it may appeare whether the Prisoner be baylable or not. *Lam.* 297. *Cro.* 153. a. nu. 11. *Dal.* 315, 396.

If one be committed without bayle or mainprise, and the cause is expressed in the *Mittimus*, and yet is baylable, other Justices of the P. may bayle him: yet, *Quare*, seeing their authority is equall. *Dal.* 351.

The forme of the *Mittimus*.

To send felons to the gaole. *Lam.* 220. *Dal.* 394.

To send rioters to the gaole. *Lam.* 321.

To send shooters in Peeeces. *Lam.* 297. *Dal.* 398.

To send upon forcible entry, &c. *Lam.* 150.

To send to the house of correction. *Dal.* 396

To send an Ale seller without license. *Da.* 387

To send a reputed father of a bastard. *Dal.* 392.

Monasteries, *vide* Religious houses.

Mortuaries.

Spiritual person not to take mortuaries or any thing for them, where they have not been used to be payed, or where the goods of the dead are under 20. marks; taking above 3. shil. 4. pence where the goods are under 30. pound, or above 6. shil. 8. pence where they are above 30. pound and under 40. pound, or above 10. shill. where they are above 40. pound, he shall forfeit all taken above his due, and 40. shil. to the party grieved. 21 H. 8. c. 6. *Lam.* 435, 436.

Malti-

Multiplication of gold and silver.

To practise the art of multiplication of gold and silver, is felonie. *5 H.4.c.4. Lam.227,425.*

Murder.

Murder is when one upon malice pretended, premeditated, or precedent, doth kill another feloniously that liveth within the Realme, or under the protection of the King, whether it be openly or privately, and whether the partie slaine be English or alien. *Lam.237. Cro.21.a.nu.1. Dal.241,239.*

The killing shall have relation to the death, and not to the stroke. *Coke 4.42. Cro.21.a.nu.1.*

Malice is $\left\{ \begin{array}{l} \text{Expressed,} \\ \text{or} \\ \text{Implied.} \end{array} \right. \left\{ \begin{array}{l} \text{Cro.21.a. Dal.241.} \\ \text{Lam.239.} \end{array} \right.$

Malice expressed is when it is knowne that there is malice betwixt them, *Cro.21.a.* and is apparent, and where there is a precedent falling out or lying in wait, or time and place appointed. *Dal.241. Lam.238.*

Malice implied is when one is killed suddenly, without defence. *Dal.241. Cro.21.a.nu.2.*

As where one killeth another without provocation. *Lam.239. Dal.241.*

One busied, as reading, going over a stile, &c. killed: *Cro.27.a.nu.20. Dal.241.*

One stabbed, not having weapon drawne. *1 Lac. c.8.*

To kill an officer known, in executing process. *Dal. ibid.*

To kill an unknown officer if he shew his warrant, and if an officer hath the Kings writ or lawfull warrant, though it be erroneous, and slaine in executing it, is murder. *Lam.240. Dal.241.*

To

To kill any magistrate or minister of Justice in executing his office, or in keeping the Peace. *Dal.242. Cro.25.b. nu.51.*

A rioter killeth an officer or an assistant comming to suppress a riot, it is murder in all the rioters. *Cro.23.b. nu.28. Lam.241. Dal.242.*

A Constable parting an affray, or any of his company comming to aid him, although it was suddenly and in the night. *Cro.25.a. numb.51. Dal.241.*

A thiefe killing a true man in resisting, is murder of malice prepensed. *Lam.241. Dal.241. Cro.22.a. nu.13.*

1 A man carryed his sick father into the frost, whereby he dyed. *Lam.240. Dal.242.*

2 An harlot hid her child, and covered it with leaves, and a Kite struck it and killed it. *Dal.242. Lam.240.*

The owner knoweth his beast to be accustomed to hurt, and doth not tye him up, and after the beast killed a man. *Lam.239. Dal.242.*

In these three cases voluntas reputabitur profecto, for it sheweth that they had a will to hurt, and the will doth amount to malice, Dal. ibid. and so to murder.

One having malice against another, assaulteth that other, and after flyeth to the wall, and then killeth that other; it is murder, for he "slew him in the said malice wherein he did "assault him. *Lam.239.*

One condemned to die is killed by a private person without warrant, or by the officer contrary to the judgement; it is murder. *Lam.240.*

Prisoner killed by his gaoler by over-hard keeping, it is murder. *Lam.240.*

One commandeth his servant to beat a man, who beateth him so that he dieth thereof; it is murder.

murder in the commander, *Dal. 245.* murder in both, if it be in the commanders presence. *Lam. 241.*

Many come to doe an unlawfull act, and one in doing thereof killeth a man, it is murder in all, although they did but look on. *Dal. 245, 253. Cro. 22. a. nu. 10. 24. b. nu. 43. Lam. 241. Stamp. 40.* If they be not present, yet if they be in the same house, or upon the same ground, it is murder in all. *Dal. 245. Cro. 25. a. nu. 5. Lam. 241.*

All present and aiding, abetting or comforting another to doe murder, are principals. *Dal. 245. Lam. 243. Cro. 22. a. nu. 15.*

Two appoint the field and meet, and bring company with them, and one of them is slaine; it is murder in all that came with the murderer. *Dal. 245.*

Murder is intended to only, and he killeth another, it is murder. *Lam. 243. Dal. 244.*

A woundeth B. in fight, and after they meet suddenly and fight; if B. kill A. it is murder, for it is intended malice upon the former hurt; but if A. kill B. it is but manslaughter, for the hurt did appease his former malice. *Lam. 251, 238. Dal. 243.*

Two in suit meet and quarrell, and the defendant killeth the plaintife; *quare* if it be murder. *Dal. 244.*

Two fight upon malice, and one of them killeth one that came to part them; it is murder in both. *Dal. 244. Lam. 242.*

The owner rebuked one stealing his peares, who killed the owner, it was adjudged murder. *Dal. 245. Lam. 241. Cro. 24. a. nu. 34.*

Poysoning of another wilfully whereby he dyeth, is and was murder by the common law. *Dal. 244.*

The

The party poisoned must die within a yeare and a day after the receiving of the poison. *Dal.* 246.

After the beating or hurting another, to make murder, or other homicide, the yeare and the day is reckoned from the stroke given. *Dal.* 246. *Cro. 23. b. nu. 54.*

An appeale hath relation to the death. *ibid.*

A woman delivered of a bastard, endeavouring privately either by drowning or by secret burying to conceale the death thereof, as that it may not come to light, whether it were borne alive or dead, but be concealed, shall suffer death as in case of murder, except she make prooffe by one witnesse that the child was borne dead. *21 Jac. c. 27.*

Justices of Peace may take endictments of murder as of murder. *Lam. 493.*

“ A man hath a horse that will strike such as
“ come neere him, his master knowing it, ri-
“ deth among people, the horse killeth a man,
“ it is felony in the master. *Dal. 242. La. 239.*
“ *Cro. 24. b. nu. 45.*

“ Indictment of murder must expressly have
“ *murdravit*, for *ex malitia præcogitata*, &
“ *voluntate*, & *felonice interfecit*, is not suffici-
“ ent. *Cro. 101. a. nu. 4.*

Musters.

Convicted before the Justices of Peace for offence against the statute of musters, shall be imprisoned 10. dayes without bayle, unlesse he pay the forfeiture being 40. s. which is for absence without reasonable excuse, or not shewing his best furniture being commanded. 4. & 5. P. & *M. c. 3. Lam. 349, 482.*

The partie that sueth upon the statute of musters,

Musters.

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musters, is to recover the forfeiture belonging unto him by action, or bill of debt. *ibid.* La. 583.

Name.

THe names and surnames of the party indicted must be certainly expressed; and if the indictment be of an accessory in felony, the name of the principall must be set downe also. *Lam.* 488. *vide* Additions.

Nets, *vide* Hunting, Partridges and Pheasants.

Newes.

Contriver, speaker, or teller of false or counterfeit newes, whereof discord, &c. may arise betwixt the King and his Nobles, or any other false newes, lies, or other false things of Prelats, Dukes, Earls, and Barons, &c. whereof discord and slander may arise within the realm, shall be imprisoned till he find out the author; and if he cannot find him, shall be punished by the advice of the Council, *west.* 1. 3 *Ed.* 1. c. 33. 2 *R.* 2. c. 5. 12 *R.* 2. c. 11. 1. c. 2. *P.* c. 3. *Dal.* 326.

Next Justice.

Where the statute of 13 H. 4. c. 7. willeth the Just. of Peace most nigh in every County, where such riot or rout shall be, to do execution of the statute under pain of 100. pound, if any other Justices, that be not next unto the place shall execute the statute, it will excuse the next, because all have power alike, by the first part of the stat. *Lam.* 326, 327. *Dal.* 111. *P.R.* 30.

Night walkers, *vide* Watches.

Noble

Noble Personages.

A Noble mans promise to keepe the peace, hath been held sufficient. *Dal.* 165. *Lam.* 81, 82.

Just. of P. may not grant warrant of the Peace against a Lord of the Parliament. *Dal.* 165.

Nor against a Dutchesse, countesse, or Baronesse; for they are Peeres of the Realm, and shall be tryed by their Peers, and have the same priviledges that Dukes, Earles, and Barons have. *Dal.* 165.

Dutchesse, Countesse, or any Noble by birth, marrieth with a gentleman, she loseth not her name of dignity: but if she be made noble only "by marriage, and her husband dying, marry a "gentleman, she loseth her digni y. *Cro.* 110. a. *Dal.* 168. *Vide* Clergie, that a Noble man may have his clergie for any felonie, except wilful murder and poysoning.

"None are noble under the degree of a Baron. *Lam.* 539.

Non sanæ memoriæ.

There be 3 sorts of persons, *Non sanæ memoriæ*, or, *non compos mentis*. *Dal.* 248.

1 A naturall foole, who is so from his birth.

2 He that was once of sound memory, and after by sieknesse, hurt, or other accident or visitation of God loseth it.

3 A lunarick, *qui gaudet lacidis intervallis*, and sometimes is of good understanding, and sometimes is not *compos mentis*.

Nusans.

Every man may in a peaceable manner assemble a meet company to doe any lawfull thing, or to remove or cast downe any common nusans.

Dal.

Dal. 224. Cro. 66. a. nu. 64.

“ One is indicted of Nusance and acknow-
 “ ledgeth it, infinite distresse shall goe to the
 “ Sherife to remove it, and he shall not be re-
 “ ceived to his fine till the Sherife returne that
 “ it is removed. Cro. 186. a.

Obedience to the King.

IF any practise to absolve, perswade, or with-
 draw any from their naturall obedience to
 the King, or (for that intent) from the reli-
 gion now established here, to the Romish religi-
 on, or to move them to promise obedience to
 the See of Rome, or other estate, or if any have
 been willingly so absolved, or have promised
 such obedience, it is treason. 23 El. c. 1. Lamb.
 412. Cro. 18. a.

Colore officii.

When officers take any thing *colore officii*, it is
 taken in *malam partem*, and is extortion, and the
 office is but a vaile to cover the fault; but when
 it is *ratione* or *virtute officii*, then it is in *bonam*
partem. Cro. 57. b. nu. 2.

Ordinarie.

His Fees, *vide* Fees.

The Ordinarie oweth not his attendance at the
 Sessions of the Peace, as he doth at the gaole
 delivery. Lam. 395. 396.

“ The Court may allow Clergie, in strict-
 “ nesse of law, though the Ordinary or his
 “ depury be not there. Cro. 118. b. nu. 44. Stam.
 “ 133. a.

“ A felon adjudged to be hanged in sayling
 “ to reade, may in favour of life have the be-
 nefit

“ nescit of Clergie at the gallows. By which it ap-
 “ peareth, that the Ordinaries presence is not of
 “ necessity. But this is intended where the Felon
 “ is adjudged in the Kings bench, not at the as-
 “ sises, for their Commission endeth with their
 “ Sessions, but before Justices of P. it seemeth he
 “ may have his Clergie at the Gallows, for their
 “ Commission continueth, and may allow Cler-
 “ gie without an Ordinarie. *Cro. 119. a. nu. 54, 56*
 “ *Stamf. 132. b.* yea one repyed may pray his
 “ Clergy at the next Assizes. *Cro. ibid. nu. 56.* The
 “ Judges are Judges of the Clerks reading, & not
 “ the Ordinarie. For if the Ordinary say that he
 “ readeth, and cannot, he shall be hanged, and
 “ the ordinary fined. *Cro. 119. a. nu. 49. Vide plus*
 “ Clergy. Extortion.

Oath.

You shall swear that the surety of the Peace,
 which you require against *A. B.* is not of any ma-
 licious intent, for vexation, but for very feare,
 and for the needfull preservation of your body
 and goods in safety, so help you God. *Lam. 83.*

Oath of the Justices of peace, *vide Dal. 13.*

Oath of supremacie, *Dal. 14.*

“ Oath of Constables and Churchwardens it
 “ is to be enlarged. *vide Tiplers.*

Oath of Allegiance. *Dal. 15. 3 Jac. 6. 4. 7 Jac.*
c. 6.

The *Custos Rotulorum* or any two Justices of
 the Peace, one being of the *Quorum*, may take
 the oaths of Under-sheriffes of their County,
 their Bailiffes, Deputies, Clerks, or under-offi-
 ces. *Dal. 138.* See 27 *El. cap. 12.* the forme of
 the oath.

Quere if Justices of the P. may examine upon
 oath

oath sureties of their sufficiency. *Dal.* 171. Justices of P. in their Sessions may do it, *Cro.* 194. a. Br. imprisonment. 18.

Default of Under-sheriffes, their Clerks, Bailiffs, &c. in not taking their oaths for execution of their office, is to bee heard and determined at the Quarter Sessions. 27. *Eliz.* c. 12. *Lamb.* 615.

Under-sheriffs, Bailiffs, &c. doing any thing contrary to their oaths, lose to the party grieved treble dammages. 27. *El.* c. 12. *Lam.* 433.

Where the refuser of the oath of Allegiance shall incur a *Premunire*, vide *Premunire*.

Refuser of the oath of allegiance is disabled to execute any place of judicature or office being no office of inheritance, or ministeriall function, or practice of the Law Civill or Common, or the science of Physick, Surgery, or the art of Apothecary, or any liberall science. 7. *Jac.* c. 6.

One Justice of Peace to whom complaint is made, may commit to the gaole without bail till the next Assizes, gaol-delivery, or Quarter Sessions, any above the age of 18. yeares (under a Baron or Baronesse) which stand presented, indicted, or convicted for not coming to Church, or not receiving the Communion, or which by the Minister, petty Constable, and Churchwarden, or any two of them, shall bee complained of to any Justice of the peace, and by him suspected, may by such Justice be required "to take the oath of allegiance, and may bee "committed without bail till the next Assizes, for "refusing the oath of allegiance. 7. *Jac.* c. 6. *La.* 199. *Dal.* 82. 107.

Two Justices of the Peace, one being of the Quorum, may require any person of the age of

of 18. or above, under the degree of a Baron or Baronesse, to take the oath of allegiance, and on refusall to commit him to the gaol without bayle, till the next Assizes or Qu. Sessions. 7 *Jac. c. 6. Lam. 363.*

Where the examination of a Justice of P. is the conviction of the party, there it ought to be upon oath; but where it is but to informe the Jurie upon the indictment, it needeth not. *Lam. 536. Dal. 159.* Though the statute doth not expressly say it shall be upon oath. *Dal. ibid.*

In cases of felony it seemeth convenient that the information be upon oath, otherwise the examination shall not be given in evidence. For

If the examine die before the tryall, the examination may be evidence; without oath many will speak coldly. It is the practise of the Courts in Westminster. *Da. 307. Cr. 308. Cro. 194. a. nu. 5. Lam. 213, 214, 215. Br. Examination 32.*

The refusing the oath of allegiance required by two Justices of the P. and the taking of the same and oath of supremacie by a conformed Recusant returning into England, are to be certified at the next Q. Sessions. 7 *Jac. c. 6. Lamb. 363, 364, 365.*

The oath of allegiance being required at the Q. Sessions of such as formerly refused the same, and being there tendered & refused, the refusers (other then Noblemen and women) incurre *Premunire*, except women covert, who are to be sent to the gaol without bayle. *Lam. ibid.*

Orchards and Gardens; vide Hedge-breakers.

Overseers of the Poore.

“Overseers for the poore for every parish
“are to be nominated yearly in Easter week,
“or

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“ or within a month after, by two Just. of P. one
 “ being of the Quorum, under their hands and
 “ scales, dwelling in or neere the parish. 43. *El.*

“ c. 2. *I am.* 360. *Dal.* 91. *210* *100* *100* *100* *100*

“ Overseers and Churchwardens with two such
 “ Justices, may set to work, children of such as
 “ are not able to keep them; and all married
 “ and unmarried which have not meanes to
 “ maintain them; And may raise a weekly stock
 “ or otherwise by taxation of every inhabitant
 “ and dispose thereof. *ibid.*

“ Overseers and Churchwardens (not letted
 “ by sicknesse or other just cause allowed by two
 “ such Justices) shall meet monthly in the
 “ Church upon Sunday after Evening Prayer,
 “ to consult about ordering of the poore, or for-
 “ feite xx.s. a piece. 43. *El. c. 2.*

“ Any finding himselfe grieved with the taxa-
 “ tion made by the Overseers, &c. or by the Ju-
 “ stices, may have remedy at the Qu. Sessions.
 “ 43. *El. c. 2.*

“ In disability of the parish, the two Just. may
 “ tax any other parish within the hundred. If the
 “ hundred be not sufficient, the greater part of
 “ the Justices of Peace in other Sessions may
 “ rate other parishes. 43. *El. c. 2.*

“ Overseers and Churchwardens either pre-
 “ sent or subsequent may by warrant of two such
 “ Justices levy all summes and arerages of any
 “ refuser by distresse and sale of his goods. In de-
 “ fault of distresse, two such Justices may com-
 “ mit him without bail till payment made. 43.
 “ *El. c. 2.*

“ Overseers may be committed till they do ac-
 “ count. 43. *El. c. 2.*

All to whom the overseers by 43. *Eliz. 2.*
 may binde apprentices, may take and keepe
 I them

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them as apprentices, and the overseers may with the assent of two Justices of Peace, one being of the Quorum, in their respective limits whete there be more then one, or by assent of one Just. of Peace, where there be no more, set up, use and occupie any trade, mystery or occupation, onely for setting poore of the parish on worke wherein they are overseers. 3. *Car. cap. 4. Vide Poore.*

Pannel, *vide Jurors.*

Pardon.

AT the Common Law before the statute of 13 R.2. *stat. 2. c. 1.* a pardon of all felonies was good for murders, and so for petty treasons. *Lam. 561.*

Pardon of all felonies is not good for murder or petty treason, except the pardon be with a *non obstante*, or that murder be therein expressly mentioned. *Dal. 246. Cro. 21. b. nu. 7.*

But it is good for accessaries, both before and after.

A pardon of all felonies will not discharge a man that is attainted of felony, except the execution and attainder be pardoned. *Cro. 115. a. nu. 1. Lam. 562. Dal. 245.*

Breaker of the Peace after the Pardon, forfeiteth the Pardon, and may bee hanged notwithstanding his pardon. *Cro. 115. b. nu. 16. Dal. 247.*

The King onely can pardon treason, murder or other felony, or any accessory thereunto. *Dal. 247.*

Generall pardon is that which is given by act of Parliament to all men, of which the Court ought of duty to give allowance, though the par-

party will not plead it nor accept the benefit thereof. *Lamb. 559, 560. Cro. 115. b. nu. 13.*

Pardon of abjuration is not good without speciall words of abjuration. *Lam. 562.*

Quære if a generall pardon for pety treason availe him that is indicted of murder, without the word *proditorie*. *Lam. 560.*

A generall pardon (comming betwixt the stroke and the death) of all misdemeanours, will availe for the death. *Lam. 560.*

Quære if a pardon of all offences (except persons outlawed of murder) will availe one that hath committed manslaughter, and yet indicted and outlawed of murder, and after the pardon reverseth the outlawry. *Lam. 560. Cro. 116. b. nu. 17.*

Pardon of attainder and execution for felony is not good for felony without words to pardon the felony it selfe. *Lam. 562.*

Pardon of a Gaoler for escapes of felony and traitors, is not good for voluntary escapes. *Lam. 562.*

Pardon of two for all felonies done by them, or either of them, will not serve for offences done by one of them alone. *Lam. 562.*

Pardon must agree with the indictment in name and addition of the party, and nature of the offence; for a pardon of all felonies is not good for pety treason, murder, nor of one attainted of felony. *Lam. 561.*

A speciall pardon ought to be pleaded under the great seale, and a writ of allowance brought with it, testifying he hath found surety for the good behaviour, unlesse there be a dispensation by *non obstante*. *Lam. 561.*

Prisoner pleadeth a pardon, the Justice of P. in

absence of the Kings attorney may joyn issue that he is one of the persons excepted. *Lam. 540. Stamf. 103.*

He that killeth another *se defendendo*, needs not sue to the King for a pardon. *Stamf. 15.b. Lam. 253.*

Hee that killeth one by misadventure, shall have a pardon of course without suit. *Stamf. 16. Stat. of Glo. c. 9.* in both cases the goods are forfeited.

The manner of suing a pardon of course is, If they desire to purchase their pardon, they must upon their tryall plead not guilty, and then the speciall matter being found by verdict, they shall be bayled; then they must sue forth a *Certiorari* to certifie the record to the Lord Chancellor, who shall make them a pardon of course under the great seale without suing to the King. *Stam. 15. Dal. 250.*

Park and Parker.

Hunters or killers of any Deere or Conies in the night or day time in any park or warren, or in any other inclosed ground, and being thereof lawfully convicted, every such offender shall suffer three moneths imprisonment, and find sufficient surety for the good behaviour for the space of seven yeeres, or else continue in prison till he find such sureties for the space of 7. yeeres, and " pay treble damages, or (if it be for deer) x.l. " to the party grieved at his election. *5. El. c. 21. 7. Jac. c. 13. Dal. 326. Vide Hunting.*

Parson and Vicar, *vide Ecclesiasticall* causes.

Par-

Partridges and Pheasants.

Every Justice of peace may examine offences against the statute of 23. *Eliz. cap. 10.* for taking of partridges, and pheasants in the night, "and binde the offenders by recognisance "with good surety, to appeare at the next Quarter Sessions, &c. And after conviction, and "punishment take bond with sureties that for "two yeeres after they shall not offend against "the said statute. *Dal. 87. Lamb. 200. 23 El. cap. 10.*

By 1. *Iac. cap. 27.* 1 He that shall shoot at, kill, or destroy with any gunne, crosse-bow, stone-bow, or long bow, any partridge, pheasant, house-dove, pigeon, heron, mallard, duck, teale, wigeon, growse, heathcock, moregame, or any such fowle, or hare. 2 Or shall take, kill or destroy any partridge, pheasant, house-dove or pigeon, with setting-dogs and nets, or with any manner nets, snares, engines or instruments. 3 Or shall take or willingly destroy the eggs of any pheasant, partridge, or swan. 4 Or shall trace or course any hare in the snow, or shall take, or destroy any hare with cords or such instruments. 5 Or shall keepe any greyhound for deere or hare, or setting-dogs or nets to take pheasants or partridges, not having lands of inheritance of 10. pound or 30. pound *per annum*, for life, or in goods 200. pound, or be the son of a Knight, or sonne and heire apparant of an esquire: any of the said offences being proved by the parties confession, or oath of two witnesses before any two Justices of the Peace of the Countie where the offence shall be committed, or the party apprehended, shall be imprisoned for 3. moneths without bayle, unlesse hee forthwith

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upon

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upon his conviction pay to the use of the poore there 20.shil. for every hare, fowle, and egge, & 40.shil. for having every such greyhound, setting-dog, or nets, or after three moneths imprisonment be bound with two sureties not to offend in any the said particulars, which recognizances taken by two Justices of the Peace, must be returned at the Quarter Sessions. 1 Jac. c. 27. Dal. 89. Lam. 335.

By 7 Jac. c. 11. prooffe of one witness is sufficient for the taking of partridges and pheasants, with setting-dogs and nets, or other nets, snares or engines, &c. the punishment as 1 Jac. 27. Lam. 334.

Killer of partridges or pheasants with hawks or dogs, by colour of hawking betweene the first of July and the last of August, upon conviction within six moneths after the offence by the confession of the party or oath of two witnesses before two Justices of Peace, is to be imprisoned one moneth without baile; unless he pay presently to the Churchwardens and overseers of the poore where he offended or was taken, 40 shil. for hawking, and twenty shillings for every partridge or pheasant taken. 7 Jac. c. 11. Lam. 335. Dal. 88.

Taking of pheasants or partridges upon another mans ground by nets or otherwise, except unwillingly by lowbell or trammell, and there to let them goe again, loseth 20. shil. a pheasant, and 10. shil. a partridge. 11. H. 7. c. 17. & 23. El. c. 10. Lam. 447.

Hawking in corne before it bee cropped, without consent of the owner, loseth 40. shillings. *ibid.*

Taker, killer, or destroyer, by guns, bows, setting-dogs, nets, or other engines, of any par-

Partridges and Pheasants. 187

partridge or pheasant, except the owner of a warren, Lord of a Manour, or having lands of inheritance in his own or his wives right of the cleare yearely value of 40. pound, or for life of 80. pound, or goods worth 400. pound, and their household-servants authorized by them within their owne grounds in the day time onely between Michaelmas and Christmas, upon conviction within six weeks after the offence committed, by confession or oath of two witnesses before two Justices of Peace next the place of offence or apprehension, to be imprisoned 3. months without bayle, unlesse hee pay immediately unto the Churchwardens and Overseers of the poore of one of the said places, 20. shill. and be bound to the King by recognizance in 20. pound never to offend again: the same to be certified at the next generall Qu. Sessions. 7. *Iac. cap. 11.*

Buyer or seller of hare, deere, partridge, or pheasant (except partridges or pheasants bred up or brought up from beyond the seas) loseth for every deere 40. shil. pheasant 20. shil. hare or partridge 10. shil. one moiety to the informer, the other to the poore of the parish. 1. *Iac. c. 27.*

Constable by warrant from two Justices of the Peace may search the houses of any not allowed, suspected to have any setting-dogs or nets for partridges, and finding them, may take, carry away, detain, kill, or cut in pieces any of them. 7. *Iac. c. 11.*

Offences against the statute of 1. *Iac. c. 27.* punished by it, are not to be punished by any former, and are to be heard and determined by Judges of Assize in their Circuit, Just. of P. at Qu. Sessions, or two Justices of the Peace out of the Sessions. 1. *Iac. 27.*

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“ Who may take partridges and pheasants
“ in their owne ground, and when. *Vide 7 Jac.*
“ *cap. 11.*

Peace.

Every private person that shall be present at any affray, assault, or batterie, ought to part them that fight: and if he take hurt, he shall have his action; but if they resist him, he may not hurt them. *Lam. 131. Dal. 33.*

Every man may stay the affrayers, till their heat be cooled, and then they may deliver them to the Constable, to imprison them till they find sureties of the Peace; but they may not imprison them unless the one of them be in peril of death by some hurt, for then any man may carry the other to the gaole till it be knowne whether the other will live or die. *Lam. 131. Dal. 33. Br. Corb. 225.*

He which hath mortally hurt another, flyeth into anothers house, any man that pursueth him with hue and cry, may break open the house, enter, and take him. *Dalt. saith the Constable may. Lam. 131; 132. Dal. 34.*

“ If any affray, forcible entry, or any thing
“ in disturbance of the peace be done in the pre-
“ sence of a Justice of Peace, he may record it,
“ and certifie the same, and commit the parties
“ presently. *Dal. 89. vide Affray.*

“ If the Justice of P. certifie into the Kings
“ Bench that I. S. hath Broken the Peace, upon
“ that Certificat I. S. shall be there fined, without
“ allowing him any traverse. *Dal. 89.*
Peeres, *vide Noble personages.*
Pedlers, *vide Rogues.*

Perjurie.

Perjurie.

Proeuring any unlawfully to commit wilfull perjurie in any case depending in Court of Record, Leet, Court Baron, Hundred Court or ancient demesne, or hath corruptly suborned any witnessle sworne to testifie *in perpetuam rei memoriam*, or if any have upon such procurement, or by his own act wilfully committed such perjury, the procurer shall forfeit 40. pound; and if not worth so much, halfe a years imprisonment without bayle, stand upon the pillorie for one houre, and disabled for a witnessle for ever after. *5 El.c. 9. & 14 El.c. 11.*

The perjured 20. pound and six moneths imprisonment, and ever disabled for a witnessle; and if not worth 20. pound, to have his eares nailed to the Pillorie. *5 El.c. 9. & 14 El.c. 11. & 1 Jac.c. 25. Lam. 416. Cro. 18. a. b.* This offence to be heard and determined in the Qu. Sessions. *Lam. 609.*

Execution of the forfeiture upon the stat. of Perjurie, to be awarded by the J. of the P. before whom the conviction was. *Lam. 585.*

Committing of Perjurie upon answer to a bill of complaint is not within the stat. of *5. Eliz.* but for a false deposition upon examination upon interrogatories. *Cro. 18. b. nu. 3.*

If any give false evidence upon a bill of Endictment at the Sessions, it is held he shall not be punished by the stat. of *5. Eliz.* for that the King is not named in the said statute. *Cro. 18. b. nu. 5.*

“ If any officer take other fees then are allowed and incident to his office, he committeth
“ Perjurie. *Cro. 57. b. nu. 7.*

“ A man is attainted of Perjurie, the King
I 5 pardons

“pardons and restores him, *Quere* if his testimony shall be allowed against a prisoner,
 “for *Once forsworne, ever forlorne. Cro. 100. b. Dal. 305.*

Petic-treason.

The wilfull killing or joyning in killing of the husband by the wife, the master or mistresse by the servant, the Ordinary by his clerk, is pety treason. *25. E. 3. c. 2. La. 245, 246. Dal. 236. Cro. 19. b. nu. 1.*

The child maliciously killeth the father or mother, it is petic-treason, though the father or mother at the same time give neither meat, drink, nor wages to the said child; but it is petic-treason in the said child, in respect of the duty of nature violated. *Dal. 233. Cro. 19. b. but Lamb. saith it is not treason in the child, if the father give it not meat nor drink, as to a servant, Lam. 245. and doe their businesse, for it is as a servant. 21 E. 3. 17. meere formeistre by Lam. opinion.*

The sonne or daughter in law kill the father or mother in law with whom they dwell, and do service, and have meat and drink; it is petic-treason, though such child take no wages; but the indictment shall be by name of servant. *Dal. 237.*

Judgement in petic-treason is, a man is to be drawn and hanged; if a woman, both in high-treason and pety treason to be drawn and burned. *Lam. 570. Dal. 237.*

The forfeiture for petic-treason is, the King shall have all his goods, and for his lands *Annum, diem, & vastum*, and the escheat thereof shall be to every lord of his proper tee. *Dal. 238.*

No clergy is allowed in case of petit treason.
Dal. 237.
 Pewter, *vide* Brasse.

Physician.

One neither Physician nor Chirurgion taketh upon him to cure a sick or wounded man, who dieth under his hand, it was felony untill 34 H. 8. c. 8. *Lam. 240. Dal. 243.*

But if a smith or other having skill onely in curing and dressing diseases of horses, or other cattell, shall take upon him cutting, or letting bloud, or such like cure of a man, who dieth thereof, it seemeth to be felonie. *Dal. 243.*

Pictures brought from Rome, *vide* *Agnus Dei.*

Playes and Players, *vide* Unlawfull games, *vide* Rogues.

Plague.

Head-officers and Justices of P. in a Corporation, or in a priviledged place, or two of them, may set a weekly tax on the inhabitants of the corporation, or priviledged place, or liberties thereof, for the reasonable reliefe of persons infected, or dwelling in houses infected within the said corporation or priviledged place.

1 *Jac. c. 31. Lam. 337.*

Corporation or priviledged place not being able to relieve the persons infected therein, upon certificate of the head-officer or Justices of Peace, or two of them to the two next Justices of the Peace, the said two Justices may assesse and tax the inhabitants of the Countie within five miles of the corporation at a weekly tax for the reliefe of them. 1 *Jac. c. 31. Lam. 337.*

There

There being no J. of P. in the corporation, or the infection being in a hamlet, the two next Just. of the countie may assesse the inhabitants of the Countie within five miles of the place infected, for the reasonable reliefe thereof. 1 *Iac. cap. 31. Lam. 338.*

The taxes upon refusall to be raised by warrant of the head-officers or Justices upon the goods of the refuser, or upon default of goods returned, the partie by another warrant to be imprisoned, till he make payment thereof with the arrerages. 1 *Iac. cap. 31.*

Taxes made for the reliefe of places infected, are to be certified at the next Quarter Sessions, and there to be continued, enlarged, or extended to other parts of the Countie, or determined by the greater part of the Justices. 1 *Iac. cap. 31. Lam. 609.*

Taxes levied of the Countie for the reliefe of an infected corporation, are to be disposed by the head officer and Justices of the corporation, or two of them; and if there be no Just. then by the Justices assessors. 1 *Iac. c. 31.*

Officers negligent in levying of the taxes, lose 10. shillings to be employed as the taxes. 1 *Iac. c. 31.*

Watchmen nor to bee impeached for hurting those infectious persons that being commanded to keep in, will in offering to come forth resist the watchmen. 1 *Iac. c. 31.*

Any infectious person commanded to keepe in, goeth abroad, and keepeth company, having an infectious sore uncured, is felonie without corruption of blood or forfeiture of goods; if without sore, to be punished as a vagabond by 39. *El.* and bound to his good behaviour for a yeare. 1 *Iac. c. 31.*

Officers

Officers of a Corporation and Just. of the P. in the Countie, may respectively appoint, sweare, and direct searchers, watchers, and buryers of infected persons and places. 1 *Jac.c.* 31. *Lam.* 197.

“ One Justice of P. may command persons in infected houses to keep in: and, if they goe abroad, violently enforce them. 1 *Jac.c.* 31. *Lam.* 197. *Cro.* 122. *b.* nu. 39. *Dal.* 91.

Plaints in Court.

One Justice of P. may upon complaint examine the Sheriffe and Undersheriffe and Plain-tiffe concerning the taking & entring of Plaints in their County Court and books against the statute, or any bailiffe of the hundred for not warning the defendant in such a plaint according to his Precept from the Sheriffe or Undersheriffe; and if he thereby find them faulty, that shall stand for a sufficient conviction and attainder without further enquiry or examination, and these examinations the Justice must certifie into the Exchequer within a quarter of a yeare, on paine of forfeiture 40. shil. for every default. 11 *H.* 7. 15. *Lam.* 201. *Dal.* 137.

Sheriffe entring plaints in any mans name that is not present in Court, nor hath any sufficient attorney or depury, loseth 40.s. *Lam.* 431.

So if he enter more plaints then the plaintife supposeth he ha h cause of action for. 11 *H.* 7. c. 15. *Lam.* 431.

Pond and Pond-heads, *vide* Fish.

Poysoning, *vide* Murder.

Pope.

To extoll the power of the Pope by writing, cyphering, printing, preaching, or any speech,
open

open deede or act advisedly holden or stood with to extoll or defend the power of the Bishop of Rome, or of his See, heretofore claimed and usurped within this Realm, or to abet, procure, counsell, aid, or comfort such, is treason, for the second offence, for the first offence, *Premunire. Dal. 23 I. Lam. 4 II. 5. El. c. I.*

Presentment at the Quarter Sessions for extolling the power of the pope of Rome, must be certified by the Justices of Peace before whom it was taken into the Kings Bench, within 40. dayes after, if the terme open; if not, then the first day of the next term, or every Just. loseth 100. pound. *5. El. c. I.*

Popish books.

Printer, buyer, seller, or bringer from beyond the sea of any Popish Primer, Lady Psalters, &c. in any language, or other superstitious booke in English, loseth 40. shillings a book, whereof one part to the King, another to the informer, a third to the poore of the parish where the booke shall be found. *3. Jac. c. 5.*

Two J. of the P. may search the house or lodging of a Popish recusant, or whose wife is such, for Popish books and reliques, and finding any unmeet for them to use, may deface and burn them, or being of value deface them, and restore them to the owner. *3. Jac. c. 5.*

Poore people.

Traveller with wife and children not being a rogue, dyeth or runneth away, the Towne where that happeneth is not bound to keepe them, where they die, nor send them away, but only in charity, except they become wandring rogues. *La. 208. Rosol. 7.*

Parents

Parents able to work are to finde their children by their labour, and not the parish. *Resol.* 8.

None is to be removed out of the Town where he dwelleth, or sent to the place of birth or last habitation, but a vagrant, nor found by the Town except he be impotent. *Resol.* 9.

Persons destitute of houses by expiration of terme, or servants out of service, must provide houses for themselves & services. *Resol.* 9. *Dal.* 99.

Able bodies yet idle refusing to work, and no wanderers, are not to be sent to the place of birth or last habitation, but to the house of correction, *Resol.* 10. by such a Justice of P. as may appoint overseers for the poore. 43. *El.c.* 2. *La.* 209. & 295. *Dal.* 99.

Able bodies, yet idle and refusing to worke, having any lawfull meanes to live by, are not to be sent to the house of correction. *Resol.* 10. *Lamb. ibid.* *Dal.* 97.

It is finable to remove or put any out of the parish, who are not to be put out, and such may be sent back. *Res.* 11. *Dal.* 98.

None may take reliefe at any mans doore in the parish, but by the appointment of the overseers, nor beg in the high-ways in their parish. *Resol.* 1. 5.

Parsons, vicars, farmers, or owners of impropriations, cole-mines or saleable woods, are to be charged with the reliefe of the poore. *Resol.* 18, 19.

Bishop and his Chancellour, and 3. J. of P. have power to examine how money for reliefe of the poore appointed by the statute is bestowed, and to call to account the detainers thereof. 14. *El.c.* 5. & 39. *El.c.* 18. *Lam.* 366.

Just. of P. proved before the Judges of Assise by two witnesses to be in default about the execution

tion of the statute for the poore, loseth 5. li.
14 El.c.5. Lam.372.

Parents at the Qu. Sessions appointed to keep their children, or children their parents, and have not relieved them at their owne charges, lose 20. shillings a moneth. *Lam. 445. 39 El.c.3,4.*

In disability of the parish or hundred to relieve the poore, the greater part of the Justices at the Quarter Sessions may rate any other parish or hundred thereto. *39 El.c.3. & 43 El.c.2. Lam.611.*

Beggers children at the Qu. Sessions may be bound to serve any subject in an honest calling. *14 El.c.5. & 18 El.c.3. Lam.614.*

Performance, or not performance of so much of the statute of *14 El.c.5.* for the poore as is not altered by *39 Eliz.c.3.* or *43 El. c.2. 1 Jac.c.25.* is to be yearly examined at Easter Sessions. *Lam.620.*

Overplus of the stock for maymed souldiers is to be imployed by the greater part of the Just. at the Qu. Sessions to such charitable uses as are set downe in the statute for the poore, except by them it be reserved for future pensions. *43 El. c.3.*

Young children, the parents being dead, are to be set on work and relieved by the town where they dwelled at the death of their parents, and not sent to the place of their birth. *Dal.96.*

The Justices may compell such as be of ability, to take poore children apprentices, and may bind such masters refusing, over to the next gaol-delivery: So said Sir *Henry Mountague* at Cambridge Assizes 1618. and the stat. of *43 El.c.2.* seemeth to warrant as much, the words whereof are to this effect.

It shall be lawfull for the Churchwardens and Overseers, or the greater part of them, by the assent of two Just. of the P. to bind any such children to be apprentices where they shall see convenient cause, Dal. 93. or the Churchwardens or Overseers, with the assent of two such Justices, may impose a competent summe of money upon such refuser for putting out such an apprentice, and upon refusall to levy it upon the Just. of P. his warrant by distresse and sale of the offenders goods. Dal. 93.

If the Parents, without good cause shewed, refuse to suffer their children to be apprentices, the Justices may binde them over to answer their contempt; if the child refuse, send him to the house of correction, *quousque*, &c. Dal. 93.

A master putteth his apprentice into apparel, he cannot take it away though he part with the apprentice. Dal. 96.

Two Justices of P. one being of the Quorum, may send to the house of correction or gaole, such as imploy not themselves in work being appointed. 43 El. c. 2.

Possession actuall and in Law.

If after the death of A. another man abateh or entrech into his house forcibly before the heire of A. hath gotten any actuall possession indeed, the heire of A. shall have no restitution, because he had a possession in law onely. Lam. 153. Dal. 217.

Power of the County.

Information of a riot is a sufficient cause to raise the power of the County, though indeed there

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there were none. *Lam.* 315. *Dal.* 114. *Cro.* 62. b. nu. 22. & 64. b. nu. 49.

Power of the County is raised without knowledge or information of a riot; if when they come they find one, it is lawfull, and they may proceed to punish it. *Lam.* 316. *Dal.* 114. *Cro.* 62. b. nu. 20.

Power of the County in suppressing a Riot, *vide* Riot.

The Justices of Peace, Sheriffe, or Under-sheriffe, in levying the power of the County, may have the aid of all the Knights, and other temporall men under that degree that are above the age of 15. and able to travell, upon pain of imprisonment, fine, and ransome to the King. *Dal.* 113. *Lam.* 315. *Cro.* 157. b. But it is referred to the discretion of the Justices how many or how few they will have, and in what sort they shall be armed. *Dal.* 113. *Lam.* 315. *Cro.* 64. b. nu. 49.

One Just. of P. may take power of the County to suppress rioters, and need not tarry till his fellows come. *Cro.* 157. b. *Dal.* 110. *Lam.* 181.

Constable may take the aid of his neighbour to arrest another upon an affray. *Cro.* 158. a. *Lam.* 134.

Sheriffe upon a writ of Execution returned that he could not execute it for resistance, and was amerced 20. marks, because he took not the power of the County. *Cro.* 158. a. *Lamb.* 157. *Dal.* 216.

Preacher.

He that disturberh a Preacher of purpose maliciously or contemptuously in Sermon-time, is to be bound to his good behaviour, and have 3. moneths imprisonment. *Lam.* 416. 1 M. c. 3.

If

If the disturber of any Preacher be arrested and brought before any Justice of Peace, upon due accusation and examination heard, either by the arrester or other person, he shall forthwith commit the party so taken to custody by his discretion; and within sixe dayes after another Justice joyning in examination, they upon confession of the party, or conviction of two witnesses, may commit him to prison for three moneths. *Lam.* 195, 333. *1 Mar. c. 3.*

Quære if all the statute of *1 Mar. 3.* be not repealed by the generall words at the latter end of the statute *1 Elizab. c. 2. Dal.* 103, 104. *Sir Nich. Hides* opinion cited that it was wholly repealed.

Precept, *vide* Warrant.

Premunire.

Refusall to take the oath of the Kings Supremacie, the first offence is *premunire*, the second treason. *5. El. c. 1. La. 411. 23. El. c. 1.*

To aid, comfort, or maintain one that hath committed treason in using of bulls is *premunire*. *23. El. c. 1. La. 413. Vide* Treason.

To hold, set forth, or defend the power spiritual of any forreine Prince or person heretofore claimed, used, or usurped within the Kings dominions by writing, printing, preaching, expresse deede or act maliciously or directly, or to put in use or execute any thing to that end, the first offence is *premunire*, the second treason. *1 El. c. 1. & 5. El. c. 1. enquirable by words of 23 El. c. 1. & Lam. 411.*

He which aideth any person that putteth in ure any bull, writing, or instrument of absolution gotten from the Bishop or See of Rome, &c. to the intent to uphold the authority of the

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the See of Rome, incurreth *præmunire*. 13 *El.c.2.*
 & 13 *El.c.1.* *Lam.413.*

To bring from the Bishop or See of Rome, or any claiming authority from it, *Agnus Dei*, crosses, pictures, beads, grains, or such like superstitious things, or to deliver or offer them, or cause to be delivered or offered to any of the Kings subjects to use or weare in any wise, or receive them to such intent, and not to apprehend the offender, or within three dayes disclose him to the Ordinary or other Justice of Peace, or within one day deliver the things received to a Justice of Peace. 13 *El.c.2.* & 23 *El.c.1.* *Lam.414.*

The forfeiture in cases of *Præmunire* upon the statute of 16 *R.2.* is to forfeit his lands and tenements in fee for ever, his lands in taile for his life, and all his goods and chattels, and to have a perpetuall imprisonment, and to be out of the Kings protection. *Cro.14.a.* *Dal.234,235.* but *quere* if he be attainted upon 27. of *E.3.* 1. if he appeare at the day of the *Præmunire* returned. *Dal. ibid.* *Br. Præmunire 6.* *Coo.11.34.* *Instit.129.* & 130. at large.

A man may not kill him which is attainted in the *Præmunire* by 5 *El.c.1.* but before he might, for they were out of the Kings protection. *Cro.15.a.b.*

One lawfully imprisoned untill the next Sessions for refusing the oath of Allegiance, and there againe refusing it, incurs a *præmunire*, except married women, who are onely to be imprisoned without bayle. 13 *Jac.cap.4.* & 7 *Jac.c.6.*

Just. of P. not disclosing nor certifying within 14. dayes the name of him which bringeth any *Agnus Dei*, crosses, or pictures, to one of the
 the

the Kings Council, 13 *El.c. 2.* is *præmunire*.
Lam. 195, 372.

Broakers of bargaines contrary to the stat. of
37 *H.8. c.9.* provided against usurie, shall be
punished as Counsellors, Attorneys, or Advocates
in case of *Præmunire*. 39 *El.c. 18.* 13 *El.c. 8.*

Delivering or sending any reliefe to a Je-
suite, Priest, or other remaining in any Col-
ledge of Jesuites, incurreth *Præmunire*. 27.
Eliz. c. 2.

Presentment.

Presentment is a declaration of the Jurors
or Officers without any bill offered before.
Lam. 485.

It differeth from an endictment, which is the
verdict of the Jurors that be charged to enquire
of that offence which is offered. *Lam. 486.*

What shall be a good presentment.

Presentment at a Sessions where the style is
in the name of three, and the presentment ta-
ken by two. *Lam. 383.*

Presentment where some of the Jurors be al-
lied or of blood to him that procureth the in-
dictment; but it is no discretion in the Justices
to suffer such to be impanelled. *Lam. 398.*

Presentment of a Jurie of an hundred, of an
offence done in another hundred. *Lam. 399.*

“ Constable presents a fault at the Sessions
“ which belongeth to his office, which is al-
“ lowed by the enquest, it is good: otherwise
“ it shall not serve for an endictment. *Crom.*
“ 125.b.

“ Constables, Churchwardens, aleconners,
“ sides-men, may present all offences contrary
“ to 4 *Jac. c. 5.*

Presentment where all were not sworne, if the Record be that all were sworne. *Lam.* 399.

Where the declaration of the Officers of the Sessions shall have the force of a Presentment.

A Justice of Peace upon his owne knowledge of offences against the statute of 2. & 3. P. & M. c. 8. & 5. El. c. 13. of high-ways. *Dal.* 67. *Cro.* 125. b. 195. a. nu. 5.

Searchers appointed to examine the true making of tile. 17 Ed. 4. c. 1. *Lam.* 508.

Constable for sundry points in the statute of Winchester. 13 Ed. 1. *Lam.* *ibid.*

Amendment of a presentment, *vide Venire facias.*

Priests, *vide* Jesuites.

Principall and Accessarie, *vide* Accessarie.

Prison.

“Imprisonment, is the putting of a person
“from his liberty unto the custody of the Law,
“to answer to that which shall be objected. *Lam.*
“228. *Dal.* 343.

“A man is in prison so long as hee is in
“sight of his gaoler, though he breake away.
“*Dal.* 276.

“No man shall commit another to prison, except he be a Judge of Record. *Dal.* 344.

“Constable, imprisoning a suspect for felony,
“may lock the stocks, and put irons on him:
“And in conveying him to the Justice, or gaol,
“may pinion him, or otherwise make him sure
“that he cannot escape. *Dal.* 350.

One committed to Prison for refusing to find sureties

sureties for the Peace, shall remain there till he freely offer and find them. *Lam. 93. Dal. 171.*

One committed for denying to find sureties for the Peace, may not be delivered upon the death or release of the partie, without help of the Sessions or Gaole-delivery. *Lam. 93. Quere.*

One was imprisoned till he make fine for that he stood by whilst one was slaine, because he did not his best to attach the murderer. *Lam.*

132.

The Sheriffe or Gaoler may imprison in his house or in the common gaol at pleasure. *Dal.*

347. *Quere. Cro. 169. b. Lam. 133.*

Constable cannot imprison in his house but in the stocks, and that but untill he may provide convenient aid to convey him to the Just. of P. or to the gaole. *Dal. 348. Lam. 133.*

Just. of P. cannot commit felons to Prisons which be not common gaoles, nor make a gaole of their owne houses. *Lam. 133. 5 H. 4. c. 10. Co. 9. 119. b. Dal. 347.*

Justice of Peace may commit to the stocks some offenders against certaine penall statutes. *Dal. 347.*

Breach of Prison is the escape of a felon, though not endicted, out of the gaole, stocks, or possession of any keeper. *Lam. 229. Dal. 275.*

One imprisoned upon a *capias pro fine* is to be delivered upon payment thereof. *Lam. 574.* or upon pledges by recognizance for payment thereof. *Lam. ibid.*

Prisoners.

Every one who is under arrest for felony, is a prisoner as well without prison as in the stocks, in the high-way, or in the possession of him that arrested or hath the keeping of him. *Dal. 275,*

343.

To

To breake prison is felonie, being committed for felonie. *Lam.* 228, 424.

“ It is no matter whose Prison is broken, whether the Kings or other persons, whether it be
 “ common or private gaole, or the Constables
 “ house, or other house who hath the custody of
 “ him for felony. *Dal.* 275. *Stamf.* 31.

Rescous to help a prisoner committed for felony, to get away, is felony. *Lam.* 229, 424.

If an officer or other whatsoever by his wilfull default, suffer a prisoner to escape, it is felony. *La.* 229, 424.

Prison-breach is to escape out of the stocks; or out of any mans possession. *Lam.* 229.

“ A Constable voluntarily suffereth a thiefe
 “ to drown himselfe, it is felony in the Con-
 “ stable. *Dal.* 276. but if the thiefe kill, hang,
 “ or drowne himselfe, it is a negligent escape.
 “ *Dal.* *ibid.*

Prisoner of sufficient ability shall beare his owne charges, and of them that shall be appointed to guard him to the gaole, and he refusing, the Constable of the parish where he dwelleth, by warrant from the Justice that committed him, may levie the same by distresse and sale of his goods after apprisement by foure of the parish, the overplus to be delivered to the owner. 3 *Jac.* c. 13.

Prisoner not of ability, and those that guard him, to have their charges from the place of apprehension to the gaole, born by the parish where he is apprehended, the same to be equally taxed by the Constables and Churchwardens, and two or three of the inhabitants, and allowed by the J. of P. 3. *Jac.* c. 10.

Any lawfully taxed for the charge of bringing a prisoner to the gaole, and refusing to pay it to the

the Constable or other officer of the parish, by warrant from the Justice of Peace that committed him, may levie the same by distresse, and (after apprizement by four of the parish) sale of the goods, giving the owner the overplus. *3 Iac. c. 10.*

Defendant in any action for a distresse taken by force of the statute of *3 Iac. c. 10.* may plead not guilty; and give the speciall matter in evidence, and upon recovery or non-suit shall have treble damages. *3 Iac. c. 10.*

Prisoners discharged by Justices of Peace who take the indictment to be void, may be stayed if they change their opinion before judgement. *Lam. 540.*

“ A man outlawed for felony is imprisoned amongst traitors, and breaking prison setteth them loose, this is rescous of a traitor, and treason. *Cro. 35. a. nu. 5, 6.*

Privie Sessions, *vide* Sessions.

Processe.

Processe hath the name because it proceedeth or goeth out upon former matter either originall or judiciall. *La. 519.*

• Suggestions and informations, whether by word or writing, are but to stir up the Justices to commend the cause to the Inquest, and not to award processe upon them, *Lam. 509.* unlessse it be in certain causes where it is especially given them by statute. *ibid.*

Authority to make processe upon endictments is given to the Justices by words of their commission, or by implication where the power of hearing and determining is given by their commission. *Lam. 520.*

“ Proces ought alwayes to bee in name of
K the

“ the King with *Non omittas*, &c. with *Teste* of
 “ any two Justices under their hands sitting in
 “ Court. *Lam.* 520. *Dal.* 412.

No processe, plea, or suit, is to be discontinued
 by making a new commission of the Peace. 11
H. 6. c. 6. & 1 *Ed. 6. c. 7.* *Lam.* 520. See the end of
 1 *Ed. 6. c. 7.*

Processe upon all endictments of trespassse a-
 gainst the peace or upon speciall statute is *Veni-
 re facias*; and if he be thereupon returned suffi-
 cient, then a *Distingas infinite*; if he be returned
Nihil habet, then *Capias alias*, *pluries*, *Exigent.*
Lam. 522, 523. *Dalt.* 412.

Processe upon the statute of unlawfull games,
 liveries, maintenance, archerie, &c. *Venire facias*,
Capias, *Exigent.* 33 *H. 8. c. 10.* *Quere* if it be not
 repealed by 37 *H. 8. c. 7.* *Lam.* 523.

Processe upon the statute of victuals, attach-
 ments, *Capias*, *exigent.* *La.* 523, 524.

Processe upon depraving the Sacrament is two
Capias, *Exigent*, *Capias utlagatum*, and may be
 sent by any three Just. into any shire, one being of
 the Quorum. *Lam.* 524.

Justice of P. may award processe into a for-
 rein county against an accountant for money le-
 vied for making a gaole. 25 *H. 8. c. 5.* 5 *El. c. 24.*
Lam. 525.

Justices of Peace where the servant departed,
 may award a *Capias* to the Sheriffe of the shire
 whereinto he departed, returnable before them-
 selves. 5 *Eliz. c. 4.* So where a decayed bridge is
 in one county and the party or land chargeable
 doe lie in another County. *Lam.* 525. 22 *H. 8. c. 5.*

One indicted of treason or trespassse in one
 county, is imprisoned in another, the Justices may
 award *Habeas corpus* to remove him before them-
 selves. *Lam.* 526.

Processe upon indictment of felony may bee sent into any forrein county. 5.E.3.c.11.La.527.

Processe upon indictment of felony is two *Capias* and an *Exigent*. 23 E.3.c.14.La.528.

Indictment of treason, felony, or trespassse in one county nameth the indicted to be of another, the first proc. fle shall goe into the county where he is indicted, the second to the county where he is named, to be returnable three moneths after ; and if he be not to be found there, then that Sheriffe to make Proclamation at two County Courts before the return that he appeare before the Justices of the County where the indictment is at the day in the *Capias* ; and if he appeare not, an *Exigent* to be awarded. 8 H.6.c.10.Lam.525, 526.

Two Just. of the P. which have the oversight of the Sheriffes books and of the amerciaments, upon suggestion, may make processe as in an action of trespassse against the offenders of that statute, to answer before them. 11 H.7.c.15.Lam.360.

No processe is to be awarded by the Justices after outlawry, but they are to certifie the outlawry into the K.Bench. Lam.521,522.

Processe upon informations, must be such as the Statute whereupon they are grounded do appoint. Lam.528.

The Sheriffe or his Minister that hath arrested, or caused any fine, rancome, or amerciament to be levied by reason of his indictment or presentment at the Sheriffs turn or law-day without processe from the Justices loseth forty pound. 1 E.4.c.2.Lam.431,521.

Informations made in the Sessions that an alehouse-keeper hath done any thing whereby hee hath forfeited his recognizance, the Justices of P.

may award processe against him, to shew cause why he should not forfeit his recognizance, *Lam.* 524. but *quere* what processe. *Lam.* 524.

Processe cannot be awarded by the Justices of P. upon any forfeited recognizance, except alehouses, but they must certifie them to the higher Courts. *Lam. ibid.*

Proclamation.

Justices of P. cannot acquit felons by Proclamation, or without sufficient acquittall; and if they cannot endict them, they must remain till the Gaole delivery. *Lam.* 549, 550.

The form of Proclamations to remove a force upon a writ upon the statute of *Northampton*, *vide Lam.* 168, 169. *Dal.* 61, 62.

Constable, if any affray be dangerous, may make Proclamation. *Lamb.* 132. *Dal.* 33. maketh a *quere*.

One Justice of Peace may make a Proclamation in the Kings name to stay a ryot. *Lam.* 183. *Quere*, for the statutes 1 *M.* 12. 1 *El.* c. 19. are expired.

Justices of P. at every Sessions use to make proclamation, that if any will informe for the King he shall be heard. *Lam.* 526.

Proclamation annexed to the statute of 4 *H.* 7. r. 12. is to be read every Q. Sessions, or every J. present loseth 23. shil. 4 *H.* 7. 12. *Lam.* 633. *Quere* if of force now.

Promoters, *vide* Informers.

Prophefying.

Prophefying with intent to make rebellion, dissention, losse of life, or other disturbance in the Realme, being convicted thereof before the Justices of Peace, shall bee imprisoned
one

one yeare without baile for the firſt offence, and forfeit alſo ten pound ; for the ſecond offence imprifoned all his life , and loſe all his goods and chattels, reall and perſonall, and to be impeached within ſix months. *5 El.c.15.La. 415,416.*

Purveyors.

If purveyors, caterers, or ſervants of any man but the King, take any thing without the owners will , or as they can agree and make preſent payment, it is felony. *Lamb. 231. Dal.282.Cro. 48. a.*

Purveyour ſhall not take cart or other proviſion of any Prelate or Clerk.

Purveyour, his deputy, undertaker or ſervant, maketh purveyance without warrant, of any thing above 12.pence, without conſent of the owner, it is felony. *2. & 3. P. & M.c.6. Lam.422. Dal.286. Cro.48.a.*

Purveyour taking any carriage in other manner then is comprifed in his commiſſion, it is felony. *36 Ed.3.c.2.Lam.423.Dal.286.*

Or any purveyance without commiſſion under the great ſeale. *Dal. ibid. Cro. 48. b.* it is felony.

Or make purveyance of goods above 12.pence, without teſtimony and apprizement of the conſtable, and foure honeſt men of the towne , and without delivering tales or indentures under his ſeale teſtifying his purveyance , it is felony. *Lam.423.Dal.286.*

Quære if it be but the value of 40.ſhil. or under. *Quære* by whom the apprizement ſhall bee made, and between whom the Indentures ſhall be made. *Dal.287.*

To take more victuals or carriages for the

Kings house, then he shall deliver to the same house, is felony. *Dal.* 287.

To take sheepe in their wools betwixt Easter and Midsummer at small prices, and to carry them to his owne house to shear them. *La.* 423. *Dal.* 286. 23 *E.* 3. c. 15. is felony.

Quere if the felony of purveyours by 36 *E.* 3. c. 1. be not altered by 23 *H.* 6. 1. & 2.

Purveyour taking any thing of the value of 40. shil. or under, without present payment, loseth double the value of the thing taken; and the Constable upon request made, not aiding him to resist the Purveyour so taking, loseth double damages.

And any of the Kings officers procuring any to be arrested or vexed for such resistance, loseth 20. pound. 20 *H.* 6. c. 8. & 23 *H.* 6. c. 2. *Lam.* 438.

Purveyour taking any thing of any man to spare him is to be imprisoned two years, pay treble damages, and ransome. *Lam.* 439.

Purveyour taking corne by other measure then the stricken bushell, or by any more then eight such bushels to the quarter, and that hath taken carriages therefore without making ready payment is to be imprisoned one yeare, and pay 5. pound unto the King, and 5. pound unto the party. 25. *E.* 3. c. 1. 36 *E.* 3. c. 3. & 1. *H.* 5. c. 10. *La.* 439.

Purveyour of timber or his deputy causing any timber to be felled fit for barking, but onely in barking time, except trees for building or repairing the Kings ships or houses, or having taken any profit by the lops, tops, or barks of any trees, or having taken from the owner any more of any tree then onely the timber, loseth 40. shill. for every tree. *Lam.* 438, 439. 11 *ac.* c. 22.

Dockers of Purveyours ought to be delivered over to the Justices of Peace at the next generall Sessions

Sessions, and by the Justices to be certified to the Treasurer of the Kings household. 2. & 3. P. & M. c. 6. Lam. 614.

Purveyour taking any provision for the Kings house by force of his Commission, and selling away the same, his first taking is extortion, and he is punishable as a trespasser, if not as a felon. Dal. 287.

Undertakers, deputies, servants, and all other which under colour of the Kings commission to the Kings purveyors, doe take any victuals against the statute, are liable to the pains therein mentioned against Purveyours. 2. & 3. P. & M. c. 6. Cro. 48. b.

Just. of Peace are to certifie to the Treasurer of the Kings household, the dockets of Purveyours (brought to their sessions by Constables) that the serving of such Commissions, and the true answering of purveyances may be better examined thereby. Lam. 590. 2. & 3. P. & M. c. 6.

Putting out of eyes.

Upon malice prepenesd to put out any ones eyes is felony. 5. H. 4. c. 5. Cro. 49. a. Lam. 256, 420. Dal. 280.

Quarter Sessions, *vide* Sessions.

Rape, or Ravishment.

DEflowring a maid under ten yeares old, with, or without consent, is felonie without clergie. 18. El. c. 6. Lam. 256, 421. Dal. 290. Cro. 47. b.

Ravishing a woman against her will, without

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out consent either afore or after the fact, or being with force, though after she doe consent, is felonie without clergie. *West.2.c.34. 18 El. c.6. Lam.256,241. Cro.47.b. Dal.290.*

To be present and aiding the ravisher, is rape. *Lam.258. Cro.47.b. Stam.24. Dal.290.*

No rape where the party deflowred conceiveth with child. *Lam.257. Dal.289. Cro.47.b. Stam.24.*

Deflowring of one kept as the deflowrers concubine, is a good plea upon an appeale that is is no rape; otherwise of another mans concubine. *Lam.257. Cro.47.b. Stam.24. Dal.290.*

Force without carnall knowledge is no rape. *Lam.257,258.*

See the stat.*De officio Coronatorii* made 4 E.1. Complaint must be made within 40. dayes, but otherwise in an appeale.

A woman that is ravished ought presently to levie hue and cry, and to complain thereof presently to some credible persons. *Dal.289. Cro.100.a. Stam.22.* in indictment of rape, no time to be observed.

To ravish a woman who consenteth for feare of death, &c. is ravishment; for consent ought to be voluntary and free. *Dal.290. Cro.48.a.*

“Consenting after rape doth not hinder, but
“that the husband, and if she have no husband,
“the father or next of blood may pursue the ravisher, to have him convicted. P.R.133.

Rates, *vide* Taxations.

Rebellious assemblies.

The statutes 1 M.12. and 1 Eliz. are discontinued. *Dal.222.*

Recog-

Recognisance.

Recognisance is a bond of record testifying the recogniser to owe a certain summe of money to some other, and the acknowledgement of the same is to remain of record, and none can take it but onely a Judge or officer of record. *Dal. 334.*

Every recognisance taken by a J. of P. must be made by these words *Domino Regi*, upon pain of imprisonment of any person that shall take it otherwise. *33 H. 8. c. 39. Cro. 196. b. nu. 11. Lam. 162. Dal. 175, 379.*

Sureties in recognisances ought to be subsidemen, and they must be two besides the party himselfe. *Lam. 161. Dal. 175.*

It is in the discretion of a Justice of Peace, if he take a recognisance *ex officio*, to appoint or allow the number of the sureties, their sufficiency in goods and lands, the summe of money, and how long he shall be bound. *Dal. 174. Lamb. 100.*

If a J. of P. be deceived in the ability of the sureties, he may compell the party to put in another. *Lam. 102. Dal. 178.*

Recognisance of the Peace, without expressing in the condition that it was for keeping of the peace, seemeth void. *Lam. 103. Dal. 175.*

So it is if a recognisance be that a recogniser shall not maim or beat *A.* without expressing keeping the peace. *Lam. 103. Dal. 175.*

Recognisance comprehending no time of appearance, but generally to keepe the peace is good. *Lam. 103. Dal. 176.*

Recognisance for the peace upon a *supplicavit* is not of necessity to be returned untill *certiorari*. *Lam. 109. Dal. 177.*

Recognisance taken to keep the peace against one especially, *quare* if it be good. *Lam.* 104. *Dal.* 176.

“ Recognisance taken to be levied onely of the goods or onely of the lands of the cognizer, seemeth to be good enough. *Lam.* 104. *Dal.* 167.

“ Wife or infant under the age of discretion are to be bound to the Peace by their sureties onely. *Lam.* 101.

Recognisance taken *ex officio*, if default of appearance be made, may be removed by *Certiorari*. *Lam.* 109. *Dal.* 178.

Recognisance not forfeited is discharged by the death of the King, of the cognizer or the party suing for it, if it were against him alone. *Lam.* 113. *Dalt.* 141.

The sureties dying, the recognisance is good against the executors. *Lamb.* 113, *Dal.* 141.

Recognisances taken are to be certified notwithstanding the death of the King, *Lam.* 113. or of the recognizer, or of the party at whose suit it was granted. *Lam.* 113.

The Recognisance being forfeited, the Justices shall in discretion require new sureties, or commit him to prison. *Lam.* 114. *Dal.* 163.

Recognisance of the Peace brought into the *Custos Rotulorum* and not pursued by the party, may be called upon for the King by the Clerk of the Peace. *ibid.*

Justices of the Peace cannot award Proccesse upon a forfeited recognisance, but it must be certified into the higher Court, except recognisance for Alehouses. *Lam.* 589. *Dal.* 177. *Cro.* 167. a. & 196. b. nu. 9. and the cause of the forfeiture. *Dal.* 177.

Recognisances or examinations taken concerning

cerning suspects or felons, are to be certified at the next generall gaole delivery. 2. & 3. P. & M. c. 10. *Lam.* 212.

Recognisances taken by a Justice of Peace *ex officio*, are to be brought into the *Custos Rotulorum* at the next general Sessions, *Lam.* 109 *Dal.* 177. *Cro.* 139. a. but no paine by the statute of 3 H. 7. 1. if he doe not. *Br.* Peace 11.

None but the King can pardon a recognisance once forfeited. *Lamb.* 111. *Cro.* 140. b. *Dal* 181.

“ Recognisance taken where the Just. hath
“ no authority, is void. And taken by authority,
“ if the Justice insert other matter, it is void.
“ *Cro.* 196. b. nu 7.

“ A recognisance taken by a Just. of P. is a
“ matter of record so soone as it is taken and ac-
“ knowledged, although it be not made up, but
“ entred into his booke, nay, although it be not
“ entred. *Dal.* 336. *Slam.* 77. b. E. *Brook* Re-
“ cord 58.

Reconciliation, *vide* Treason.

Records.

Records be nothing else but memorials or monuments of things done before Judges that have credit in that behalfe. *Lam.* 63.

If a record say any thing, no man shall be received to aver or speak against it. *Lam.* 63.

The Judges may correct or amend any record in the terme wherein the record is to be made, but after they have no power at all over them. *Lam.* 64.

The record or testimony of a Justice of Peace is in some cases of greater force then an endictment of a Jury, and against it the party shall not be admitted to traverse. *Lam.* 65.

Em-

Embezelling of a record is felony, but not to be dealt withall by Justices of Peace. *Lam.* 231, 549.

Precepts for suretie of the Peace, speciall records for conviction of forcible entries made out of the Sessions, are not records of Sessions. *Lam.* 389.

Records of causes determinable at the Sessions taken by the Just. of Assize at their gaol-delivery as Justices of Peace, are to be lett with the Clerk of the Peace to be brought to the next Sessions of the Peace. *Lam.* 391.

One pleadeth a record before other Justices by way of justification, the Justices ought to give him day to bring in the record. *Lam.* 555.

A Justice of Peace upon a Commission being convicted by oath of twelve men of embezelling, wilfull raising of an endictment, or maliciously enrolling that for an endictment, which was not found, or changing an endictment of trespassse into an endictment of felony, loseth his office, and shall be fined and imprisoned according to his offence. *Lam.* 631.

“To rase a record is felonie; yet if a Judge doe embzell or rase a record, it is but imprisonment in a Judge. *Dal.* 283. *Br. Coron.* 174. & *Treason* 31.

“Embezelling of any record, writ, return, pannell, procelle, or warrant of Atturney in Chancery, K. Bench, Exchequer, Common pleas, or Treasurie, is felony in the parties, their counsellors, procurers, or abettors. *Dal.* *ibid.*

“But it seemeth that J. of P. have not to doe with these felonies, *Lam.* 549. *Cro.* 56. 8 H. 6. c. 12. *Dal.* 283. for that these records doe not remaine with the Justices of P. *Cro.* *ibid.*

Re-

Recufants.

Wilfully abſenting themſelves from Church
12. moneths, contrary to 1 *El. c. 2.* and convicted,
being of 16. years of age, are to be bound to the
good behaviour, upon certificate of one Juſt. of P.
to the Kings Bench, 1 *El. 2.* beſides other penal-
ties. 23 *El. Dal. 104.*

Every Juſtice of Peace may give notice to
any perſon to forbear to receive or keepe
ſuch as ſhall obſtinately reſuſe to come to the
Church by the ſpace of a moneth together.
35 *El. c. 1.*

Heire of a Recuſant being a Recuſant at his
Anceſtours death, conforming himſelfe, and ta-
king the oath of ſupremacie made 1 *El.* before
the Archbiſhop or Biſhop of the Dioceſſe, ſhall
be free from penalties for the recuſancie of his
anceſtour. 1 *Iac. c. 4.*

Heire of a Recuſant being under 16. yeares
at the death of his anceſtour, at or after 16. years
becomes a Recuſant, he is not to be freed of his
anceſtours penalties for recuſancie, till conformi-
ty as aforeſaid. 1 *Jac. c. 4.*

Two parts of Popiſh Recuſants lands being
ſeiſed for payment of 20. li. a moneth, the third
is not to be charged with it, but is to deſcend to
his heire, and the two parts to remaine in the
Kings hands till he be ſatiſfied thereof both for
the anceſtour and heire. 1 *Jac. c. 4.*

Any ſending his children beyond the ſeas
out of the Kings dominions to any religi-
ous houſe, to be inſtructed or ſtrengthened
in Poperie, loſeth 100. pounds, and the perſon
ſo going, or being there, and not returning
within one yeare, and ſubmit, is diſabled to
inherit, purchaſe, or take any lands or goods in
his

his Majesties dominions, till conformity. 1 *Jac. cap. 4.*

Estates in trust for benefit of any sent beyond the sea to any religious house to be instructed in Popery, are void. 1 *Jac. c. 4.*

“ J. of P. not certifying at the next Quarter
 “ Sessions the oathes taken, of any reconciled to
 “ the See of Rome, upon his submission, retur-
 “ ning into the Realm, doth forfeit 40. li. 3 *Jac. c. 5. Lam. 633.*

Forfeitures upon the statute of 1 *Jac. cap. 4.* against Popish Recusants, halfe to the King, and halfe to the suer in any the Courts of Record at Westminster by action of debt, &c. 1 *Jac. c. 4.*

Popish Recusant conforming himself in coming to Church according to the law, and after is convicted for not receiving the Sacrament once every yeere, loseth for the first yeare 20. li. for the second yeare 40. li. for the third yeare 60. li. And if after conformity in receiving the Sacrament, he offend therein, he loseth for every offence 60. li. one moiety to the King, the other to the Informer, to be recovered in any of the Kings Courts at Westminster, or before the Judges of Assize, or Justices of Peace at their Quarter Sessions by action of debt, &c. 3 *Jac. c. 4. Lam. 418.*

Constables and Churchwardens, or for want of them, the high Constable once every yeare, are to present the monethly absence of Popish Recusants from Church, with the names of the servants and children above 9. yeares old, or lose 20. shil. for every offence, and upon their conviction to have 40. shil. out of their goods. 3 *Jac. c. 4. Lam. 616.*

Clerk of the Peace is to record the Present-
 ment

ment of Constables and Churchwardens for monethly absence from Church, without fee, or loseth 40. shill. 3 *Jac. c. 4.*

Offences upon any statute for not going to Church or receiving the Sacrament, may be heard and be determined by the Justices of P. at their Qu. Sessions, as Justices of Assize might before. 3 *Jac. c. 4. Lam. 617.*

Upon an indictment for not coming to Church, or not receiving the Sacrament, Justices of the Peace at their Qu. Sessions may by Proclamation command the indicted to render his body to the Sheriffe before the next Qu. Sessions or Assizes, and in default of appearance, then the same to be a sufficient conviction. 3 *Jac. c. 4. Lam. 616.*

Popish Recusant convicted of not coming to Church according to Law, shall in Easter or Michaelmas term next after the conviction, pay into his Majesties receipt after the rate of twenty pound a moneth, and so to continue without any other indictment, till he conforme himselfe, and in default of payment, all his goods, and two parts of his lands to be seized till conformity, leaving the mansion house to the third part. 3 *Jac. c. 4.*

The King seizing two parts may not let it to any Recusant nor for their use, and the lessee must give security to the King, not to commit waste. 3 *Jac. c. 4.*

Indictments against Popish Recusants are not to be avoided for want of forme untill conformity. 3 *Jac. c. 4.*

Justices of Peace may heare and determine all offences against the stat. 3 *Jac. c. 4.* except treason. 3 *Jac. c. 4. Lam. 617.*

Attainder of felony upon the stat. of 3 *Jac. c. 4.*
of

of Popish recusants, barreth not dower, nor corrupteth blood. 3 *Iac.c.4.*

Any sued for doing any thing warranted by the statute of 3 *Jac.c.4.* may plead the generall issue, and give the speciall matter in evidence. 3 *Jac.c.4.*

Husband is not chargeable with the forfeiture of the wife upon the statute of 3 *Iac.c.4.* for not receiving the Sacrament, nor the wife after his death.

Popish recusant convicted, comming to the Court where the King or his heire apparent is, without the Kings command, or warrant in writing from the Counsel, loseth 100.l. 3 *Iac.c.5.* the one halfe to the prosecutor.

Recusants convicted, or other forbearing for three moneths to heare divine service, now dwelling in London or within ten miles (except tradesmen having no other dwelling) are to depart within forty dayes, and if they come to dwell there within three moneths, then to depart within ten dayes after conviction, and to deliver their names to the Major of London or the next Justice of the Countie, or lose 100.li. 3 *Jac.c.5.* the moiety to the prosecutor.

Every one not repairing every Sunday to some usuall place appointed for Common prayer, there to heare divine Service, upon conviction within one moneth after default, upon confession, or oath of one witnesse, one Justice of Peace may call the offender before him, and if he cannot satisfie the Justice by excuse of his absence, the Churchwardens by warrant from the Justice of Peace, may levie 12. pence for every default by distresse and sale of the offenders goods, and in default of distresse the Justice may commit him till he pay it, which is to be employed
for

for the poore. 3 *Jac. c. 4. Dal. 105. Coke 11. 61. b.*

They which harbour within their houses any (except parents or others to whose custody they are committed) or knowing the same, retaine in their service any absenting themselves a moneth together from Church without reasonable excuse loseth 10.li. a moneth. 3 *Jac. c. 4.*

The King or five Lords of the privy Counsell may by writing under the hands of the privie Counsel license a Popish Recusant confined five miles, to travell out of his compasse for such time as is contained in the license, without incerting any cause. 3 *Jac. c. 5.*

Popish Recusant confined to five miles, informing upon oath foure Justices of Peace that he hath necessary occasion to travail farther, and that he will make no causelesse staves, they with the assent of the Bishop of the Diocesse, Lieutenant or his deputy under their hands and seals, and specifying in their license the cause and time of travail, may by license under their hands and seales give liberty to him to travaile forth of his compasse, all other licences to be void; and any travelling without such license, not having taken such oath, shall forfeit as a Recusant convicted by the statute of 35 *Elix. c. 2. 3 Jac. c. 5. Dal. 109. Lam. 365.* and any one of the foure Justices may minister the oath, 3 *Jac. c. 5. Lam. 296.*

Statute 35 *El. c. 2.* confining Popish Recusants to certain limits hereby confirmed, and the proviso for licensing them to goe beyond their limits is hereby repealed. 3 *Jac. c. 5.*

Popish Recusants convicted, are not to practice the common or civill law, nor physick, nor to execute any offices, places, or trades belonging

ing to any of them, nor to be Minister or officer in any Court, nor to have any place of command, or office in war, nor any office of charge in any ship, castle, or fortresse of the Kings, on paine of 100.li. one moiety to the King, the other to him that will sue. 3 *Jac.c.5.*

Popish Recusant convicted, or whose wife is a Popish Recusant, during Recusancie not to execute any publique office or charge in the realm. 3 *Jac.c.5.*

Married woman being a Recusant convicted, whose husband is not convicted, not conforming her selfe according to law, forfeiteth to the King two parts of her dower or joynture, and is disabled to be executrix or administratrix to her Husband. 3 *Jac.c.5.*

Popish Recusant upon conviction is to be adjudged excommunicate to all intents, except in being disabled to sue for or concerning his lands and leases not seised by the King. 3 *Jac.c.5.*

Recusant convicted, married otherwise then by a Minister lawfully authorized, and according to the orders of the Church, is disabled to be tenant by the courtesie, or in dower, or by joynture, or to have widowes estate, or frankbanke, or any part of her husbands goods; and marrying any, by whom he is not entituled to be tenant by the courtesie, loseth 100. pound, one moiety to the King, the other to him that will sue. 3 *Jac.c.5.*

Child of a Popish Recusant, not baptized according to the orders of the Church within one moneth after the birth, the father or mother, if he die within the moneth, loseth 100. li. whereof one third part to the King, another to the poore of the parish, and the third to him that will sue. 3 *Jac.c.5.*

Popish

Popish Recusant not excommunicated, buried otherwise then according to the orders of the Church, his executors or administrators knowing it or causers of it, lose 20.li: one third part to the King, one third part to the poore of the parish, and one third part to him that wil sue for it. 3 *Iac. c.5.*

Popish Recusant convicted, during his conviction, to be from the ending of that Parliament disabled to grant any advowson, &c. or to present or nominate to any spirituall living, the same to remaine to the Chancellors of the Universities of Oxford and Cambridge, according to the severall thires limited in that statute, so that they present none having a former benefice with cure; if they doe, the same to be void. 3 *Jac. cap.5.*

Penalties upon the stat. of 3 *Jac. c.5.* against Recusants to be recovered in any his Majesties Courts of Record by action of debt, bill, plaint, or information, without essoine, protection, or wager of law. 3 *Jac. c.5.*

Married woman under Baronesse, convicted of not comming to Church, and of not receiving the Communion, who doth not within 3. moneths after conform her selfe, to be committed by two Justices of the Peace, one being of the Quorum, untill conformity, unlesse her husband pay 10.li. a moneth to the King, or the third part of his lands. 7 *Iac. c.6.*

The penalty of 12. d. and of 20. li. a moneth shall be both of them paid by a Recusant convicted. *Dal. 106. Co. 11. 63. b.*

Two Justices of the Peace may require a convicted Recusant of small ability, who repaireth not to the place of his dwelling, or place of his birth, there to notifie himselfe to the Minister

ster and Constables according to the statute of 36 El. or afterwards remove 5. miles from the same, (if upon apprehension he conforme not himselfe within three moneths) to abjure the realme, and assigne him his time and haven. 35 El.c.2. Dal.109.

The forme of the Oath.

You shall sweare you shall depart this realme of England, and all other his Majesties dominions, and that you shall not returne hither or come again into any of his Majesties dominions without license of our Sovereigne Lord the King, or of his heires; so help you God. Dal.109. Stat.119.

Every such Recusant that refuseth to abjure, or, after abjuration doth not within the time appointed goe to such haven and depart, or after such abjuration returneth without his Majesties speciall license, in every such case shall be adjudged a felon. 35 El.c.2. Dal.109. Lam.419. 1 Jac.c.25.

The Justices of Peace before whom such abjurations shall be made, must presently cause the same to be entred of record before them, and certifie it at the next generall gaol-delivery in the said County. *ibid.*

The Bishop of the diocesse or any one Just. of P. or Minister of the parish where such convicted Recusant shall be, may require his submission. *ibid.*

Justices of Peace at their Quarter Sessions may inquire, heare and determine of all Recusants both for not comming to Church, and not receiving the Sacrament according to law, as Just. of Assize and gaol-delivery may doe, and at the Sessions (in which such indictment shall be taken) make proclamation to render their bodies

to the Sheriffe, and before the next Q. Sessions, at which if the offender make not appearance of record, it shall be a conviction. 3 *Jac.c.4. Lam. 616.*

“ Popish Recusant convicted is disabled to be
“ executor, administrator, or guardian: the guar-
“ dianship to goe to the next of kin to whom the
“ land should not come, being no Recusant;
“ and he to accompt to the heire, as the case
“ shall require. 3 *Jac.c.5.*

“ Recusants armour, gunpowder and muniti-
“ on by warrant of foure Just. of P. in their ge-
“ nerall Sessions shall be taken from them,
“ (other then necessary weapons allowed by the
“ said Justices for their defence) and kept at the
“ Recusants costs, where the Justices shall ap-
“ point. And the Recusant, refusing to tell what
“ armour he hath, or disturbing the delivery
“ thereof, forfeiteth the armour, and is to be im-
“ prisoned 3. moneths without bayle. 3 *Jac.c.5.*
“ *Lam. 617, 618.*

Regrator.

Regrator is he that buyeth live or dead victu-
als, tallow, or candles in the market, and selleth
the same there, or within 4. miles. 13 *El.c.25.*
Lam. 450. 5 Ed.6.c.14. 5 El.c.12.

Release.

Just. of P. compelleth one of his own motion to
give surety of the Peace untill a certain day, he
may by like discretion release it before the day.
Lam. 110. Cro. 139.b. nu. 16. Dal. 179.

Party bound generally to keepe the Peace
without any day limited, it is for life, and no man
can release it. *Lam. 110. Dal. 179. Cro. 142.b.*
Br. Peace 17.

Re-

Recognizance is taken at the suit of *A.* to keepe the Peace against him only, *A.* may release it before the same Justice or any other that will certify it. *La. 110. Dal. 179. Cro. 139. b. nu. 10. 169. a.* The release being at the next Qu. Sessions will discharge the party bound, of his appearance, so that he shall not be called upon for his recognizance. *Dal. ibid. Cro. 139. b. nu. 15.*

Recognizance is taken *versus cunctum populum*, *precipue versis A.* yet *A.* may release it before any Just. *tamen quere*, *Lam. 110. Cro. 142. b. Bro. Peace 17. Dal. 180.*

Recognizance is taken by discretion or upon suit, the King cannot release or pardon it before forfeiture. *Lam. 111. Cro. 140. b. 141. a. Dal. 180.*

The Peace being released, the recognizance must not be cancelled, but certified at the Sessions with the release, lest peradventure the peace was broken before the release made. *La. 111. Dal. ibid. Cro. 139. b. nu. 16. 169. a.*

Whether the good abearing taken upon complaint may bee released by any speciall person. *Quere Lam. 123. Dal. 197.*

Neither the Justice of the P. nor the party can discharge a recognizance of the Peace by the release out of the Sessions; for first the recognizance is made to the King, and therefore none but the King can release or discharge it. Secondly the recognizance is taken for the parties appearance, and the releaser cannot discharge the appearance. *Dal. 180. Brook Peace 17.*

The appearance is requisite, notwithstanding any release made; first, for the safety of the recognizance; secondly, that others may object in open Sessions, if he have broken the Peace, that hee may be indicted thereupon. *Dal. 180.*

E contra Cro. If the J. of P. at the Sessions do
cer-

certifie the release, by this the obliged is discharged, and shall not be called upon for his recognisance, nor his default recorded, for the principall cause of the recognisance was the keeping of the peace, the which is discharged by the release which is certified at the Sessions, and then the appearance is but accessary to the same, and the intent is only that then he should finde new surety if the party will not release; and this is the common usage. *Cro. 139. nu. 15.*

Vide plus Recognisance, & Forfeiture.

Religious houses.

The owner of the site of a religious house dissolved, in yearly value under 200. pound, must keepe a continuall house there, or lose 20. nobles a moneth, to be enquired of, and determined at the Quarter Sessions. 27. H.8.c.22. 5 *El. c.2. Lam. 471.*

Replevin, *vide* Bailment.

Rescous of a Felon.

Rescous is to help a prisoner to get away; and if it be a felon, it is felony. *La. 229. Dal. 274, 275.*

Rescous of a felon before arrests, is no felony, otherwise after arrest. *Lam. 230. Dal. 276. Quere Stam. 31.*

Rescuing a Prisoner going to the gallows, is felony. *Dal. 276.*

A warrant being granted by a J. of the P. for unlawfull hunting of Deere or Conies, to make rescous thereupon is felony. *Dal. 75.*

Rescous against an officer or person authorized to execute the statute of 39. *El. c.4.* loseth 5. pound, and is to be bound to his good behaviour. *Dal. 128.*

“If

228 Rescous of a Felon.

“ If a stranger take one out of prison with the
 “ prisoners assent, if he be in for felony, it is felo-
 “ ny by the common law in the rescuer, and he
 “ is a principall by the statute *De prisonam fran-*
 “ *gentibus. Cro. 38. a. nu. 2.*

“ One is in the stocks for suspicion of felony,
 “ & is let out by a stranger, it is felony, although
 “ the party who escaped, is not indicted. *Cro. 35.*
 “ *a. num. 3.*

Restitution of Possession.

None shall have restitution but such as are put
 out of house or land. *Dal. 214. Cro. 162. b. La. 153.*

If it be found upon enquiry that any have en-
 tred or held with force contrary to the stat. 8. H. 6.
 c. 9. the Justice of P. may reseise and put the par-
 ty so put out in full possession. *Cro. 161. b. Dal. 214.*
 but the putting out must first be found. *La. 152.*
Cro. ibid.

The Justice of P. needeth not to stay or stand
 upon the right or title of either party. *Dal. 214.*
Cro. 164. a.

No restitution is to be made where there was
 only a possession in law. *Lam. 153. Dal. 217.*

In a restitution it is not enough that the put-
 ting out be found, unless the indictment doe al-
 so contain in it *adhuc extra tenet.* *Dal. 214. Cro.*
163. b. Lam. 153.

Restitution ought to be made to none other
 then the party put out. *Dal. 214. Cro. 162. b.*
Lam. 153.

After the entring or detaining with force
 found, the Justice of P. may by himselfe or pre-
 cept to the Sheriffe under the test, of him-
 selfe alone restore the party grieved to his pos-
 session. *Dal. 216. Lam. 156.*

None can make restitution but they before
 whom

Restitution of possession. 229

whom the indictment is found, but the Justices of the Kings Bench, either upon certificate made by the J. of P. before whom it was found, of the presentment, or if the said presentment or indictment be removed by *Certiorari*. *Dal.* 216. *Lam.* 157, 158.

If the Sheriffe returne upon a precept or writ of restitution that he cannot make restitution for resistance, he shall be amerced, for he may take the power of the county. *Dal.* 216. *Lam.* 158. *Cro.* 163.b.

Justice of Peace before whom the presentment was made, dyeth before restitution; *quare*, whether the Justices at the Sessions can award it. *Lam.* 157.

Justices of Peace ought not to award restitution where the indictment is insufficient in law, either in matter or forme. *Dal.* 215.

In the indictment, 1. not onely an entry must be, but also a putting out: 2. the indictment must expresse the quality of the thing, (*viz.*) whether it be messuage, cottage, meadow, pasture, wood, or land arable: 3. it must say, *Et adhuc extra tenent*: 4. *Expulerunt & adhuc extra tenent*: 5. one of these two words, *manu forti*, or *cum multitudine*. *Dal.* 214, 215. *Cro.* 169.b. 163.b. *Lam.* 153.

If error or insufficiencie be in the indictment taken before Justices of Peace, and restitution awarded, any two Justices of those that were present at the taking thereof may at another Sessions, or without Sessions grant a *super sedes* if the Sheriffe have not made restitution before. *Dal.* 215. *Cro.* 162.a.

If restitution be made by Justices upon an insufficient indictment, and it be removed into the Kings Bench, the Court will restore the
L party

230 Restitution of Possession.

party put out by the Justices of Peace. *Dal.* 215.
Cro. 168. a.

Causes to stay restitution.

1. No restitution upon an indictment to be made, if the party indicted hath had the occupation or beene in quiet possession three yeares together next before the day of the indictment found, and his estate not ended, which the party may alledge for way of restitution, untill it be tried, if the other will traverse or deny the same.
31 El. c. 11. Dal. 219.

2. *Certiorari.*

3. A traverse: *quare Lam.* 158.

4. Insufficiency of the indictment.

5. Insufficiency of the Jurors not having 40. shil. land by the year. *Dal.* 218. *La.* 152. *Cro.* 165.
b. Quare.

Justice of Peace, upon indictment found, may give restitution as formerly to freeholders to tenants for yeares by copy of Court, guardians in Knights service, tenants by *elegit*, Statute Merchants or staple. *Dalt.* 207. 21 *fac. cap.* 15.

“ The disseisee outeth the disseisor by force,
“ the disseisor shall be restored. *Lam.* 148. *Dal.*
“ 217.

“ Upon traverse the Justice may stay restitution.
“ *Dal. ibid.*

“ The disseisee entreth peaceably, and keepeth out the disseisor by force; the disseisor shall not be restored, because the disseisor had the younger title. But the disseisee shall be imprisoned and fined because hee held with force. *Crom.* 163. *b. &* 164. *b.*
“ *Dal.* 217.

“ The disseisee entreth quietly upon the disseisor,
“ and so abide together divers dayes, and then

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“ then the disseisee putteth out the disseisor by
 “ force, the disseisor shall not be restored. *Dal.*

“ 217. *Cro.* 163. a. b..

“ Wife, children, and servants doe preserve a
 “ possession . but cattle on the ground doe not.

“ *Dal. ibid. Cro.* 164. b.

“ Two are in possession by several titles in one
 “ house, the law judgeth him in possession who
 “ hath the best right to the possession . As *A.* en-
 “ ters wrongfully upon *B.* and both doe continue
 “ in the house; afterwards *B.* puts out *A.* with
 “ force; *A.* shall not be restored, for *A.* never
 “ gained possession by his entry. *Dal.* 217. *Cro.*

“ 163. b.

“ Two are joyntenants or tenants in common,
 “ whereof one forcibly putteth the other out of
 “ possession : *Quære* what a Just. of P. may doe
 “ therein for that his entry and possession is
 “ lawfull. *Dal.* 217. *Pax regis* 39.

Restitution of stolne goods.

He that hath goods stolne , if the felon bee
 thereof indicted and arraigned, and found guilty
 thereof , or otherwise attainted by reason of
 evidence given by the party robbed, or the ow-
 ner of the goods, or other by their procurement,
 then the goods shall be restored though they
 never made fresh suit. *Dal.* 306. *Cro.* 191. a. *Lam.*
 586.

And the Justices have power to award writs
 of restitution. 21 *H.* 8. c. 11. *Lam.* 586. *Cro.* 191. a.
Br. Restitution 22. *Dal.* 306.

Executors shall have restitution after attain-
 der or conviction upon evidence by their meanes
 given. *Dal.* 306.

Three are robbed, restitution shall bee onely

231 Restitution of stoln goods.

to such for whose goods the felon was indicted.
Dal.306. Cro.191.a.

A felon stealeth from severall men, is attained onely at the suit of one; the King shall have the goods of those, at whose suit he was not attained. *Dal.306.*

There be divers theeves, and onely one principall is attained, the robbed shall have restitution. *Dal.307.*

If the felon sold the stolne goods in market overt, or in a faire, no restitution, except he that bought them were privy to the felony. *ibid. Cro. 191.a.*

No restitution of stolne goods, if he know not the felon. *Dal.307.*

No restitution if the felon leaveth the goods and escapeth, and the Lord of the Manour seiseth them. *Dal.307.*

If the felon had not the goods in his possession when he fled, but left them elsewhere, they are not waived, but the owner may take them where-soever he findeth them. *Co.5.109. Dal.307.*

“A man had his horse stoln, and so he published it, but knew not who stole it, so that he
“could not indict him, &c. It seemeth that he
“shall not have his horse againe, for it was his
“folly to publish that it was stolne, for he might
“have demanded it, as lost. And when he knew
“who took his horse, he might afterwards indict
“him. *Cro.191. b.*

Returne.

Recognisance taken by the Just. of P. *ex officio*, ought to be returned at the next Q. Sessions. *La. 109. Dal.173. Cro.139.a. Supplicavit* is to be returned into the Court whence it came. *Lam. 107. Dal.177.*

Returne

Returne of a recognisance upon a *supplicavit*, is not of necessity till *Certiorari*. *Lam.* 109.

Returne of Jurors, *vide* Jurors.

Vide Recognisance, & Release, & Certificate.

Riots.

Riot is where three or more persons be disorderly assembled to commit with force any unlawfull act, and doe accordingly execute or attempt the same. *Lam.* 176. *Cro.* 61. a. nu. 2. *Dal.* 221.

" Three or more enter into land with force, &c. where their entry is lawfull, it is a riot. *Dal.* 226. *Cro.* 64. a. nu. 49.

What Assemblies shall not be said a Riot.

1 Sheriffe or Bailiffe levie people to serve the Kings writs. *Lam.* 178. *Dal.* 223.

2 Constable gathereth assistance of men with weapons to part an affray. *Lam.* 178.

3 A man threatned to be beaten in his house, assembleth company with force, otherwise of a threatning to be beat as he goeth to market. *Lam.* 179. *Dal.* 224. *Cro.* 64. a. nu. 42.

4 Many assemble together, and they know not to what end. *Lam.* 179. *Cro.* 61. b. nu. 7. *Dal.* 222.

5 Many assemble at a Church-ale, or at a Christmasse dinner, and they suddenly fall out and fight. *La.* 179. *Dal.* maketh *quare* 223.

6 A number of women and children under the age of discretion flock together for their own cause, unlesse moved by a man of discretion to do some unlawfull act. *Lam.* 180. *Dal.* 226.

7 To gather meet company to carry away a
L 3 piece

piece of timber which will not be moved without a good many, whereto I pretend right, though in law it be anothers, *La. 178.* yet if he use threatening words, as to say he will have it in spight of the other, or though he die for it, his doing may then become a riot. *Dal. 225. Lam. ibid.*

8 To meet to drink at an alehouse, to play at football, bucklers, beare or bull-baiting, dancing, bowls, cards or dice, or such-like disports. *Dal. 223. Lam. 178. Cro. 61. b. nu. 7.*

9 To use harnesse on Midsummer day at night in London, or on May-day in the countrey. *La. 178. Cro. 64. a. nu. 43. Dal. 223.*

The Master intending a riot, taketh with him his ordinary servants who know nor his intent, it is no riot in the servants. *La. 179. Cro. 61. b. 62. a. nu. 13. Dal. 222.*

A Jury falleth out and fighteth, it is no riot. *Dal. 222. Lam. 180.*

If any assemble for any disports, as aforesaid, with intent to breake the peace, and make an affray, or doe other outrage, it seemeth to be a riot in so many as come with such intent. *Dal. 223.*

Quere if falling out suddenly at such a meeting, and then falling to take parts be a riot. *Dal. 223, 224.* But if by agreement they meete again and fight, it is a riot. *ibid. Vide Dal. 224. Cro. 61. b. nu. 12.*

It can be no riot, except there be an intent precedent to doe some unlawfull act with force. *Dal. 222. Cro. 62. a. nu. 13.*

Yet if a man goe to Sessions or market with his servants in harnesse, though there be no intent to commit a riot, yet the manner maketh a riot. *Cro. 61. a. Vide 2 E. 3. c. 3. Dal. 225.*

What

*What one Justice of Peace is to doe
in case of Riots.*

He may prevent a riot before it be done, or stay it in the doing, and in the doing may take and imprison the rioters, and binde them to their good behaviour. *Dal. 109. Lam. 181.*

A riot being done, Justices of peace can neither record the riot, nor make enquiry, nor assesse the fine, nor award proceffe, nor meddle with it, but onely as a trespassse against the peace, or upon the stat. of Northampton of forcible entry, *Dal. 110. Lam. 181.*

Justices of Peace sitting in a judicall place, & seeing a riot, may command them to be arrested, and record it, and it concludeth the offenders. *Dal. 110. Cro. 65. nu. 54. Lam. 385.*

But a Just. of P. in another place seeing a riot, and recording it, the parties may traverse it. *ibid. Cro. 65. a. nu. 53. Lam. 386.*

Every Justice of P. being of and in the county, having notice of any riot, ought to have a care to execute the statute 13 Hen. 4. c. 7. viz. that the rioters be arrested, &c. and removed, otherwise the next Justices forfeit 100. pounds a piece, and every other Justice in whom there shall be default fineable in the Star-chamber. *Dal. 110. Cro. 124. a. nu. 22.*

One Just. of P. may arrest rioters, enforce them to finde sureties for the peace or good behaviour, or in default commit them to prison. *Dal. 112. Cro. 157. b. Lam. 181.*

A Justice of peace not finding the rioters come to the place, may leave his servants to restrain the rioters when they come, or else arrest them if they offer to breake the peace. *Dal. 110. La. 181. Br. Peace 7.*

If the Justice of Peace be sick, he may send his servant to repress a riot, or to arrest such offenders, and bring them before him to finde sureties for the Peace, and his command by word is sufficient. *Dal. 110. Cro. 64. a. nu. 45. & 148. b.*

One Justice of Peace may cause all statutes for suppressing of riots to be put in execution. *Dal. 111.*

If the riot be notorious, it is not safe to stay complaint or information. *Dal. 111.*

*What two Justices of Peace may
doe in a Riot.*

They ought to send for the Sheriffe or Under-sheriffe, if none of them come. *Dal. 112. Lam. 327.*

If one or two next Justices doe come, and not the Sheriffe, or Under-sheriffe, such as come shall be excused of their fine of 100. pound. *Dal. 111. Lam. 327. Cro. 63. b. nu. 35.*

If one Justice of P. in the county shall execute the statute of 13. H. 4. c. 7. it shall excuse the next Justices. *Dal. 112. Lam. 326, 327.*

Two Justices of P. present without the Sheriffe, are finable if they doe not all which by the statute of 13. H. 4. c. 7. ought to be done. *Dal. 112. Lam. 327.*

“ If two Justices of P. (without the Sheriffe or
“ Undersheriffe) see persons committing a Riot,
“ they may cause them to be arrested, and record
“ it. *Lam. 319. Quere.*

*The particulars which the two next
Justices of Peace with the Sheriffe
or Under-sheriffe must doe upon the
statute of 13 H. 4. c. 7. Dal. 113.*

1 They

1 They must goe to the place where the riot is. *Dal.* 113.

2 They shall take the power of the county (*viz.*) all above 15. yeares of age under the degree of Barons, upon paine of imprisonment, fine and ransome. *Dal.* 114. *Cro.* 157. *b.* *Lam.* 314, 315.

It is not good to raise the power of the county without certain information and knowledg, yet they may doe it upon information, (though it be false and be excused) or without information, if when they come they find one: *Dal.* 114. *La.* 315, 316. *Cro.* 64. *b.* *nu.* 49.

3 They shall arrest all such offenders, or cause them to be arrested, and remove the force, commit to prison the rioters, and take away their weapons. *Dal.* 114. *Lam.* 316, 317.

And all such as come into the company, if they be present, shall be arrested, imprisoned, and fined, as it seemeth. *Dal.* 115.

Such as they meete comming from the place riotously arrayed, they may arrest and imprison, but cannot record any riot done by them, but after enquiry may fine them. *Dal.* 114. *Lam.* 316. *Cro.* 63. *a.* *nu.* 32.

The Justices see the riot committed, and the rioters escape; they must record it, and cannot arrest them but upon fresh suit, which record must be sent into the Kings Bench, that proceſſe may come from thence. *Dal.* 115. *Lam.* 318.

The Justices may grant a warrant for such as they saw escaping, to be bound to the good behaviour. *Dal.* 115. *Cro.* 196. *a.* *nu.* 27.

And so they may doe upon information, but it is best to doe it upon enquiry, and so to fine them. *Dal.* 115.

In execution of the said arrest of rioters, the

Justices may justify the beating, wounding, or killing of any the rioters which resist or will not yeeld. *Dal.* 115. *La.* 316. *Cro.* 62. *b.* nu. 20. & 158. *b.*

4 After arrest the Justices, Sheriffe or Under-sheriffe shall record the riot in writing, (*viz.*) all that shall be done in their presence against law, which ought to be formall and certain, as time, place, number, weapons, manner, &c. *Dal.* 119. *Cro.* 63. *a.* nu. 31. *Lam.* 316, 317.

The form of the record, vide Dal. 401. *La.* 220.

If in going to see a riot, another riot happen in their presence, they may record it, arrest and imprison the offenders. *Dal.* 115. *La.* 318.

If the rioters make a riot upon the Justices, they may record it also. *Dal.* 115.

Justices record a riot, and upon examination it appeares no riot, or saw it not, or there was no riot, yet the parties are concluded. *Dal.* 116. *Cro.* 63. *a.* nu. 33. 65. *a.* nu. 56. 130. *a.* *Lam.* 317.

5 The Justices are presently to commit rioters to the gaole, and the power of the county ought to be aiding the Sheriffe or Under-sheriffe. *Dal.* 116, 117.

None may commit the rioters but the Justices who had the view. *Dal.* 116.

If the Justices, and Sheriffe, or Under-sheriffe commit to prison the offenders, and doe not record the riot, every one of them loseth 100. li. or doe record the riot, and doe not commit the offenders. *Da.* 117. *Cro.* 61. *b.* nu. 10.

6 The said Justices and none other shall assesse the fine upon the offenders, which by the statute of 1 H. 5. c. 8. ought to be of good value, that thereout the charges of the Justices and other officers may be born, yet must it be reasonable and just. *Dal.* 116. *Lam.* 317. *Cro.* 161. *a.* nu. 45.

The

The fines must be imposed upon every offender severally. *Dal.* 117. *Co. lib.* 11. 43, 44.

The fine must be estreated into the Exchequer, *Dal.* 117. and then to deliver the offender as it seemeth. *ibid.*

The Justices, as it seemeth, may out of the fines pay the chargess of the said Justices, and of the Jury who made the enquiry, for their diet, and the Sheriffes fees; and the Justices Clerk who maketh up the record, may have his fees out of that money, or rather may take of every offender 12. pence when they pay their fines. *Dal.* 119.

Or the Justices may record the riot, commit the offender, and after certifie the record to the Assizes, Sessions or Kings Bench. *Dal.* 117.

The record may be delivered at the Sessions to the Clerk of the Peace, together with the residue of the money remaining of the fine. *Dal.* 119.

Where Justices of P. are remisse in punishing the rioters, the Lords in the Star-chamber may and doe often assesse greater fines for the same riot. *Dal.* 120. *Cro.* 63. a. nu. 30.

7 If the riot was not committed in the presence of the Justices, or the rioters gone before their comming, two Justices at least within one moneth next after must enquire thereof by a Jury returned by the Sherife, and record the riot being found, which is to remain with one of the said Justices. *Dal.* 117. *Lam.* 321.

The forme of such enquiry, vide *Dal.* 402. *Lam.* 329.

Enquiry shall not be unlesse the rioters be gone. *Dal.* 117.

It is not necessary that one of the Justices of P. be of the Quorum. *Dal.* 118. *Cro.* 62. b. nu. 25.

The

The enquiry may be made at any time after the moneth; but if it be not within the moneth, the Justices are in danger to lose 100. pound: yet if the Jury be charged within the moneth, and have day after to give up the verdict, the statute is not broken. *Dal. 118. Lam. 322.*

At the inquiry the Sheriffe or Under-sheriffe must be present; but then as ministers onely. *Dal. 118. Lam. 321.*

The Justices assemble to enquire within the moneth, the parties agree, and the Justices dis-
miss thereupon the Jury, the Justices shall bee
fined, though none will sollicite the inquest, or
give evidence to the Jury; for the Justices ought
to proceede *ex officio*, seeing some of the Jury
may have knowledge of the riot, and they ought
to make proclamation if any will give evidence.
Dal. 118. Lam. 322.

If at the parties request the Justices dis-
miss the Jury without enquiry, they are fineable
in the Star-chamber to the King. *Dal. 118.*
P.R. 29.

The Justices may binde to the good beha-
viour the parties complaining of the riot,
who caused them to meete and will not pro-
secute for the King, but have agreed it. *Dal.*
118.

Though the Justices goe not to see the riot,
yet they may enquire within a moneth after. *Lam.*
321.

8 After enquiry had and the riot found, the
Justices have power to heare and determine the
same. (*viz.*) First to make out proceffe a-
gainst the offenders under their owne test.
Secondly, to assesse the fine. Thirdly, to commit
all they have payed the fine. Fourthly, to deli-
ver them after payment of their fine or sureties
taken

taken by recognisance, or otherwise they may receive their travers, if the matter will serve, and dismisle them. *Dal.* 119. *Lamb.* 323. *Br. Imprif.* 100.

But the Justices should send such indictment or inquisition to the next Quarter Sessions or into the Kings bench together with the said traverse there to be tryed. *P. R.* 30. *Dal.* 119.

9 If the riot upon enquiry cannot be found, the Justices and Sheriffe must certifie into the Star-chamber, or Counceli board, or Kings Bench; the whole fact and circumstance, with the names of the offenders *sub pœna*. *Dal.* 120. *La.* 323, 324. *Premunire Br.* 1.

The Certificate must be made within a month after the enquiry, or else it is of no force. *Dal.* 121. *Lam.* 324.

Though two Justices with the Sheriffe see the riot, yet two other Justices may make the enquiry, and they all together, or the first two, or last two, with the Sheriffe, or Under-sheriffe, may make the certificate. *Dal.* 121. *Lam.* 325.

Where the severall certificates be made, or certificate and enquiry doe disagree, the best for the King shall be preferred. *Dal.* 121. *Lam.* 325.

If the Jury find but some guilty, the Justices may certifie the rest. *Dal.* 121. *Lam.* 325.

Any materiall thing left out in the inquisition, may be supplied in the certificate. *Dal.* 121.

Quare if after enquiry and before certificate the Sheriffe die, or one of the Justices be put out of Commission, whether a certificate can be

be made. *Dal.* 121. *Vide Lamb.* 326.

Upon the certificate of two Justices and the Sheriffe, the Lord Chancellour may grant a *capias* to attatch the offenders. *Dal.* 121. *Lam.* 313.

Upon default of the Justices and Sheriffe in not executing the statute 13 *H.4. c.7.* the party grieved may have a Commission out of the Chancery, to enquire of the riot, as also of the Justices and Sheriffes default. *Dal.* 121.

“ Also the Lo: Chancellour may send his writ to the Justices and Sheriffe to execute the statute of 13 *H.4. c.7.* *Dal.* 121.

“ The Justices and other officers shall doe their offices at the Kings charge in going, tarrying and returning, in the doing of their said offices, by payment thereof to be made by the Sheriffe for the time being, by Indenture betwixt him and the said Justices and other officers aforesaid to be made of the payment thereof, whereof the Sheriffe upon his account in the Exchequer shall be allowed. 2 *H.5. c.8.*

“ The Sheriffe is to returne 24. whereof every one hath lands and tenements within the same shire of 20. shil. *per an.* of charter lands, or 26. shil. 8. pence of copyhold, or of both *ultra repisas*; and must return for issues upon every one at the first day 20. shill. at the second 40. shil. if they doe not appeare and be sworne the first day. And the Sherife or Undersherife not returning persons sufficient, loseth for every one 20. pound to the King. 19 *H.7. c.13.*

“ If the riot, rout or unlawfull assembly be not found by the Jury by reason of any maintenance

“tenance or embracerie of the Juries: the Just.
 “Sherife or Under-sherife, (besides such certi-
 “ficate to be made by 13 H. 4.) shall, in the
 “same certificate, certify the names of the main-
 “tainers or embraceors, upon paine of every
 “Justice, Sherife or Under-sherife 20. pound,
 “(if they have not reasonable excuse) which cer-
 “tificate shall be of force, as if the matter
 “therein found were found by the verdict of
 “twelve men. And every maintainer and em-
 “braceor forfeiteth twenty pound, and to be
 “committed to ward, to remaine during
 “the discretion of the Justices. 19 H. 7. c. 13.
 “Indictment of a riot is not good, unless it
 “say *contra formam statuti inde editi & provisi.*
 “Cro. 102. a. nu. 19.

Rivers.

Every Justice of Peace is a conservatour of Rivers within his County, and may survey the Weares in Rivers that they be of reasonable widenesse. Lam. 189.

Robbery.

Robbery is a violent taking away of any goods from any mans person, with intent to steale them, and putting him in feare thereby, though the thing taken be but to the value of an half-peny. Cro. 33. b. nu. 1. Lamb. 267. Dal. 260.

But if a felon take money from me in the high-way, and shall not put me in feare, it is not robbery. Dal. 260. Cro. 34. b. nu. 12. Lam. 266.

If a thiefe take nothing from my person, but
 assaul-

assaulteth me, whereby he getteth any thing from me, it is robbery. *Dal. 260. As*

1. I cast my purse on the ground, and he taketh it away. *Lam. 268. Dal. 261.*

2. After assault he prayeth me to give him a peny, and I doe so. *Dal. 261.*

3. If upon assault I deliver my purse. *Dal. 261. Cro. 34.b.nu.10. Lam. 267, 268.*

4. If flying from a thiefe, I cast my purse into a bush, and he doth afterwards take it away. *Dal. 261. Cro. 35.a.nu.10. Lam. 268.*

5. If upon assault I flie away, and my hat fall, and the thiefe carry it away. *Cro. 35.a. num. 18. Dal. 261.*

6. If a thiefe bid me deliver my purse, (without any force used) and I deliver it, and he finding but two shillings in it, delivers it again. *Cro. 34.b.nu.10. Dal. 261.*

7. If by threats he compell me to sweare to bring him money, and afterward I bring him the money accordingly. *Dal. ibid. Lamb. 268.*

In some cases it is robbery, though the thiefe neither take it from my person, nor assault me.

As, 1. A thiefe taketh me goods openly in my presence against my will, the feare is the like as if it had beene from my person. *Cro. 34.a.nu.5. Lam. 269. Dal. 261.*

2. To take a horse or a beast out of my pasture, I looking on, if the felon put me in feare. *Dal. ibid. Cro. 34.b.nu.5.*

3. To make it robbery, the person must be put in feare. *Cro. 34.b.nu.12. Dal. 261.*

4. Two come to rob me, and one asteth it, being out of the sight of the other, who after returneth to him; it is robbery in both.

Cro.

Cro. 34. a. nu. 10. Lam. 270. 28 El. Pndseys case. Dal. 262.

To assault one to rob him without taking any thing, is not robbery. *Cro. 34. a. nu. 9. Dal. 261.*

After a robbery committed, the hundred must answer the losse, if the robbers be not taken within 40. dayes; if it be done in the division of two hundreds, both hundreds and the franchises within them must be answerable, and the hundred wherein defect of fresh suit is, the one moiety. *Dal. 131. 27 El. c. 13.*

No person robbed shall bring any action upon the statute of Hue and Cry, except he be first examined within 20. dayes next before the action brought, upon his corporall oath before some one J. of Peace of the County where the robbery was committed, whether he doth not know any of them that did the robbery; upon which examination, if he confesse he knoweth any of them, then shall he before such action brought, enter into recognisance before the said Justice, effectually to prosecute such persons by indictment or otherwise according to the due course of the lawes of this realme. *27 El. c. 13. Lam. 202. Dal. ibid.*

After the robbery committed, the robbed shall not recover against the hundred, except 1. with all convenient speed he give notice of the robbery to some inhabitant neere to the place where the robbery was committed.

2. Hee commence his action within a yeere and a day next after such robbery committed.

3. He be examined *ut supra*, before a Just. of Peace. *Dal. 131.*

Any

Any two Justices of peace in the hundred, one being of the Quorum, may asseſse all towns and parishes in the said hundred and liberties therein, upon recovery and execution had against any of the hundred, towards an equall contribution; which money the Constable must deliver to the same Justices within ten dayes after collection, and they upon request, to those to whose use it was collected. *Dal. 132. Cro. 197. a.*

And the hundred shall be assessed in like sort in default of pursuit of fresh Hue and Cry. *Dal. ibid.*

Robbery in a house doth not charge the hundred, whether it be done in the day or in the night. *ibid.*

The hundred is discharged upon taking of any of the offenders by pursuit, *Dal. 133.* so if the party robbed take any of the offenders after Hue & Cry made. *Dal. ibid.*

Robbing of an house.

1. Robbing a house or any out-house, as a barne or stable in the day, to the value of five shillings.

2. Robbing a house by day or by night, any person being therein, and thereby put in feare.

3. Robbing any person in any part of his dwelling house, the owner or dweller, wife, children, or servants being in any place within the precinct of the same, sleeping or waking.

4. Robbing any booth or tent in faire or market, the owner, his wife, children or servants being in the same, sleeping or waking. *All these are as penall as Burglary. Dal. 287. Lam. 265. 39 El. c. 15. 21 H. 8. c. 1. 5 Ed. 6. c. 9.*

Rogues.

Rogues.

All persons here under mentioned, being above the age of 7. yeares, may be punished as rogues. *Dal. 123.39 El. c. 4.*

1 All going about begging upon any pretence or colour, though licenced by any subject, except in some particular cases, after mentioned. *Dal. ibid. Lam. 442.*

2 All going about the countrey using any subtile craft or unlawfull games, as fortunetellers, juglers. *Dal. ibid.*

3 All proctours, patent gatherers, or collectors for prisons and hospitals. *Lamb. 442. Dal. ibid.*

4 All fencers, bearwards, common-players of interludes, and minstrels wandring abroad. *Dal. ibid. Lam. 443. 1 Jac. c. 7.*

5 All pedlers, pety chapmen, tinkers and glasse-men wandring abroad. *1 Jac. c. 7. Dal. ibid. Lam. 443. 21 Jac. c. 28.*

6 All wandring labourers able in body, refusing to worke for reasonable wages, having nothing but labour to maintain themselves. *Dal. 124. Lam. 443.*

But such as are of any parish, able to worke, and doe not wander, but refuse to worke for the usuall wages taxed in those parts, are to be sent to the house of correction. *Dal. ibid.*

7 Poore of the parish begging otherwise then is appointed them, or begging by high-ways, *ibid.* are to be sent to the house of correction.

8 All pretending to be Egyptians, not being felons. *Dal. ibid. Lam. 443.*

9 Souldiers

9 Souldiers or mariners that beg, except soldiers or mariners having a testimoniall from a Justice of Peace neare the place of their landing, with the place of their dwelling or birth to which they are to passe, and a convenient time limited for their travail, and pursuing the said license 39 *Eliz. c. 4.* or doe counterfeite any certificate from their Generall, Governour, Captain, Lieutenant, Marshall, Deputy or Admirall. *Dal. 124.*

10 Diseased persons travelling to the Baths and licensed, if they beg, or not licenced by two Justices, or not returning as they are limited. *Dal. 124. Lam. 443.*

11 A rogue once whipped, not performing the order appointed by his testimoniall. *Dal. 124.*

12 A rogue going with a generall passport, not directed from parish to parish. *Dal. ibid.*

So a rogue carrying his own Passport without a guide. *Dal. 124.*

13 Servant departing out of service without testimoniall, 5 *El. c. 4.* or taken with counterfeited testimoniall. *Dal. 124.*

14 Persons infected with the Plague or dwelling in infected houses, going abroad contrary to order. 1 *Fac. c. 31. Dal. ibid.*

15 Persons able to labour and relieve themselves and families, that run away or threaten to run away and leave their charge to the parish. 7 *Fac. c. 4. Dal. 125. 21. Fac. c. 28.*

16 Any calling himsele a scholar, that hath gone about begging. *Lam. 443.*

17 Any pretending losse by fire or otherwise, that wandring beggeth. *Lam. 443.*

18 Any delivered out of gaole, that hath begged

begged for fees. *Lam.* 443.

Any Justice of Peace may appoint any person to be openly whipped naked, even unto bleeding, that shall be taken begging, wandering, or misordering himselfe, and is declared by the statute 39 *Eliz.* 4. to bee a rogue, vagabond, or sturdy begger, and shall cause him so whipped to bee sent from parish to parish by the officers of the same, the next way to the parish where such person was borne, if it can be knowne; if not, to the parish where such rogue last dwelt before the punishment by the space of a yeare, there to labour; or not being knowne where he was borne or dwelt, then to the parish through which he last passed without such punishment, to whom the Justice shall under his hand and seale make a testimoniall witnessing his punishment, day and place thereof, and whither hee is limited to travell, and by what time. And in case such place of birth and last dwelling be not found nor knowne, then such person shall by the officer of such village through which he last passed without punishment, bee conveyed to the house of correction of the limit, or to the common gaole, 39 *Eliz.* c. 4. there to remaine in worke untill such person be placed in service for one yeares continuance, or not being able of body, till such person be placed in some alms-house of that place or county. *Lam.* 204, 205.

“ The like may be done by Constable assisted
“ with the advise of the Minister and one other
“ of the parish. 39 *El.* c. 4.

He is an incorrigible rogue that misreports the place of his birth, and is to be sent to the house

house of correction in the county to which he is sent; and if there be none there, then to the gaole untill the next Sessions: so if he misreport the place of his last dwelling by the space of a yeare, if it appeare not where he was borne.

Lam.207. Ref.1,2. Dal.128.

Husband and wife having an house, rogue about, they must be sent to the towne where that house is; and so of an inmate. *Lam.207. Ref.3. Dal.125.*

Wife, and children under 7. yeares being vagrant, are to be placed with the husband; if the husband be dead, then where they were borne or dwelt last. *Lam. ibid. Ref.4,9,10. Dal.125.*

Children vagrant above 7. yeares old must be sent to the place of their birth. *Dal.125. Lam.207. Ref.4.*

Vagrant parents, with their children under 7. yeares of age, being once placed at the place of birth of their parents or last dwelling, the parents dying after, or running away, the children once settled must still remaine there. *Dal.125. Ref.4. Lamb.207.*

Wife vagrant is to be sent to her husband though he be but a servant. *Lam.208. Ref.5. Dal.125.*

Rogue, whose place of birth or dwelling cannot be knowne, hath wife and children under 7. yeares of age, they must be sent with the husband to the place where they were last suffered to passe unpunished, and the children must be relieved by the work of the parents, though the parents be sent to the house of correction. *Lam.208. Ref.6.*

Rogue sent to a towne, and refused by the
Church-

Churchwardens and Overseers to whom hee is to be offered, is a forfeiture of five pound in the refuser. *Lamb. 210. Resol. 12, 14. Dal. 128.*

“ Any hindering the execution of the law of
 “ 39 *Eliz.* or any part thereof, for the convey-
 “ ing of rogues, forfeiteth five pounds. And
 “ any two Justices may bind such offender to
 “ the good behaviour, and upon confession of
 “ the offender or oath of two may by warrant
 “ under their hands and seales cause the
 “ said summe of 5. pound to be levied by di-
 “ stress and sale of the offenders goods: *Dal.*
 “ 128. 39 *El.c.4.*

Rogue sent from the place where he is taken, by a generall passport, without conveying him from parish to parish, is a let in the conveying of rogues, and a forfeiture of 5. pound. *Lam. 210. Ref. 13. Dal. 128.*

Rogue going with such a passport, continuing a rogue, is to be punished by whipping. *ibid.*

By parents is to be understood father or grandfather, mother or grandmother, being able persons. *Lam. 210. Ref. 16.*

By children, any child or grandchild being unable. *Lam. 210. Ref. 15.*

Diseased persons living of almes, and travellers to Bath or Buxton for remedy, are to be licensed thereto by two Justices of Peace, 39 *El.c.4.* *Lam. 332.* yet may not beg, but must be provided of maintenance for their travell. *Dal. 124.*

Forfeiture of offences against the statute 39 *El.c.4.* upon conviction by confession, or by two witnesses before two Justices of Peace, they

they may cause the same to be levied by warrant under their hands and seales, by distresse and sale of the offenders goods. 39 *El.c.4. Lam.* 331. See 1 *Fac.c.7. Dal.* 129.

All questions growing upon the stat. of rogues, may be heard and determined by two Justices of Peace, whercof one of the Quorum. *Dal.* 129. 39 *El.c.4.*

Constable or Tything-man not doing his endeavour to apprehend rogues within their limits, or wilfully suffering them to escape unpunished, forfeiteth 20. shill. for every offence, *Dal.* 128. and 5. pound if they doe not convey them away towards their dwelling or place of birth. 39 *Eliz. cap.4. Lam.* 444. 1 *Fac. cap. 7. Dal.* 129.

Minister of the parish not keeping a register of the testimoniall of rogues punished in his parish, and conveyed thence, loseth for every default 5. shill. 39 *El.c.4. Dal.* 129.

Every one is to carry to the Constable such beggers as they shall know to come to their doors for almes, or lose 10. shillings. 1 *Fac.c.7. Dal.* 129.

Justices of Peace are to meet twice a yeere at the least, or oftner if occasion be, in their severall divisions, for the executing of the statute against vagabonds, and foure or five dayes before by warrant to command the Constables of hundreds or townes by assistance of some of every towne, to make a generall privy search by night for finding and apprehending rogues to be brought before the Justices at their meeting by them, and punished, or sent to the house of correction. 7 *Fac.c.4. Dal.* 130. 21 *Fac.c.28.*

Con-

Constables at every meeting of the Justices of Peace for the execution of the statute of rogues are to give an account upon oath in writing, and under the hand of the Minister of the parish, what rogues, &c. they have apprehended both in the same search, and also between every meeting, and how many have been punished by them, or sent to the house of correction; and in default thereof, be fined under 40. shil. as by the most of Just. shall be assessed. 7 *Jac. c. 4. Dal. 130.*

No man is to be out of the town where he dwells, or sent to his place of birth or last habitation, but onely a vagrant rogue. *Dal. 126. Ref. 9. Lamb. 209.*

So of them whose termes of their houses are expired, and servants whose times of service are ended; for they must provide themselves houses anew, if they be not impotent. *Dal. 126.*

Dangerous rogues are to be banished, or condemned to the gallies by the Justices at their Quarter Sessions. 39 *El. c. 4. Lam. 427. Dal. 287.*

Rogues by judgement of most of the Justices of Peace in open Sessions adjudged incorrigible, ought to be branded on the left shoulder with the letter R. and then sent to their dwelling; if they have none, thē to their last dwelling place where they dwelt for a year; or if that cannot be known, to their places of birth. 1 *Id. c. 7.* If he offend again in begging or wandring, it is felony without Clergy. 1 *Jac. c. 7. Lam. 428. Dal. 278.*

“Soldiers and mariners having a testimoniall,
“under the hand of the Justice next to his lan-
“ding place, of the time and place of his lan-
“ding, limiting the place to which he is to passe,
“and the time; if he pursue the said license he
“may ask and take such necessary reliefe as any
“will give him; 39 *El. c. 17. Lam. 303. Dal. 1:6.*

“Two Justices” of Peace may send to the
 “house of correction, as a sturdy rogue, a person
 “able to work, threatening to run away and leave
 “his family upon the parish, being proved by
 “the oath of two before the said Justices, un-
 “lesse he can put in sufficient bond for discharge
 “of the parish. 7 *Jac. c. 4. Lam. 331.*

“He which runneth away and leaveth his
 “charge to the parish, is an incorrigible rogue,
 “7 *Jac. c. 4.*

Rome, vide Pope. Co. 11:36.

Rout.

Rout is where three or more persons be disorderly assembled to commit any act with force, whether they put in execution their purpose or no, if they so do go, ride, or move forward after their first meeting. *Lam. 176. Dal. 221.*

“A rout is onely by some opinions, where
 “three or more do assemble for their own com-
 “mon quarrell: As, the inhabitants of a towne
 “assemble to pull down a house, wall, pale, ditch,
 “or other inclosure, pretending to have title of
 “common, or a way there, or to beat a man that
 “hath done some publique offence. *Dal. 121, 122.*

Sacriledge.

Sacriledge is the felonious taking of goods out of any Church or Chappell. *Lam. 420.*

Sacraments.

Three Justices of Peace may take accusation by oath of two witnesses against such as deprave the Sacrament of the Supper, and examine what witnesses were by, and bind them all to give evidence at the day of tryall; and they

they being found guilty shal be imprisoned and fined. 1 Ed. 6. c. 1. Dal. 124. Quare Lam. 416. 366.

Three Justices of Peace, one being of the Quorum, may award against one indicted upon the statute of 1 E. 6. c. 1. for depraving the Sacrament, a *Capias*, *Exigent*, and *Capias utlagat*. into any shire. 1 Ed. 6. c. 1.

Justices of Peace in their Q. Sessions may enquire, heare and determine of all recusants and offences, as well for not receiving the Sacrament according to 3 Jac. 4. as not repairing to Church. And in their Sessions (wherein there shall be indictment taken for not repairing to Church, or not receiving the Sacrament) to make Proclamation to render their bodies to the Sheriffe before the next Sessions, & in default, a conviction. 3 Jac. c. 4. Lam. 616.

Salmons, *vide* Fish.

Saltpetermen.

Saltpetermen cannot dig in the mansion house of any subject without his assent, in regard of the danger that may happen thereby in the night time to the owner, his family & goods by theeves & other malefactors. Co. 11. 82. Dal. 209. *Vide* House.

Schoolmaster.

To keep or maintain a Schoolmaster which resorteth not to Church, or is not allowed by the Bishop or Ordinary of the Diocese, the maintainer forfeits ten pounds for each month, & the Schoolmaster to be imprisoned for a year without hay, and disabled. 23 El. c. 1. Lam. 419.

Any keeping a Schoole, or being a Schoolmaster out of the University, except in publike

Grammar-schools, and except in such Noble-men and Gentlemens houses as are not recusants, and licensed by the Archbishop or Guardian of the Diocese, both keeper and School-master forfeits 40. shill. a day. 1 Jac. c. 4.

Seditious Sectaries.

One Justice of Peace may within three months after the conviction of any seditious sectary or Popish Recusant described in the statute of 35th El. c. 1. require the submission of him to conformity, and in default of such submission, may require him to abjure the Realm; and if he refuse or after returne without license, it is felony. 35th El. c. 1. & 2. Lamb. 204.

Sermon, *vide* Preaching.

Servants, *vide* Labourers and Apprentices.

Servingmen, *vide* Testimoniall.

Sessions of the Peace.

The Sessions of the Peace is an assembly of any two or more Justices of Peace, one being of the Quorum, at a certaine day and place within the limits of their Commission, appointed to enquire by a Jury or otherwise to take knowledge, and thereupon to hear and determine according to their power of causes within the Commission and statute referred to their charge. Lam. 378.

Sessions held without summons are good, but then none shall lose any thing for default of appearing. Lam. 380, 381.

Summons of the Sessions is usually by precept written to the Sheriffe, and by him to be returned at the Sessions. Lam. 381.

Pre-

Precept for summoning the Sessions may be made by any two Justices of Peace, one being of the *Quorum*, but not the *Custos Rotulorum* alone; and summons cannot be discharged by *Superfedeas* of all the other Justices, but by *Superfedeas* out of the Chancery. *Lam.* 382, 383.

Sessions held by one Just. of P. is not good although it were summoned by two, and styled by their names; but by two sufficient Just. it is good, though it be styled by the name of 3. *Lam.* 383.

Quarter Sessions are to be held foure times in the yeare, (*viz.*) the first week after S. Michael, the Epiphany, the clause of Easter, after the translation of S. Thomas the Martyr, which is 7. *July.* 2 *H. 5. c. 4 Lam.* 597.

The Easter Sess. by 33. *H. 8. c. 10.* are to be holden the Tuesday next after Low Sunday. *L. 605*

Justice of Peace shall hold their Sessions foure times in the year, *viz.* Once within the Octaves of the Epiphany: the second, in the second week of Lent: the third, between the feasts of Pentecost and S. John Baptist: the fourth, within the Octaves of S. Michael. 36 *Ed. 3. c. 12. Cro. 123. b. nu. 16.*

Where *Crompton* noeth, that by 12 *R. 2. c. 10.* it is ordained that the Qu. Sessions should be held every quarter of a year at the least, and three dayes if need be; by which it appeareth that the usuall day is not of necessity, so it be kept within a quarter of a yeare. *Cro. ibid.*

By the stat. 2 *H. 5. c. 4.* Justices of Peace shall keep their Sessions foure times in the yeare, *viz.* in the first week after S. Michael, in the first week after the Epiphany, in the first week *post claus. Pasche*, & in the first week after the Translation of S. Thomas the Martyr, which is the 7. of July, and oftner if need be. *C. 123. b. nu.*

258 Sessions of the Peace.

“*Cro. 123. b. nu. 18.* faith, that upon the Stat.
“of 17 *R. 2. ca. 9.* (which permitteth to keepe
“Sess. so oft as is expedient) that in Kent they
“keep their Sess. at other times then the times
“appointed by 2 *H. 5. c. 4.* and that it is good.”

The place where Sessions are to be holden is arbitrable, and therefore though by summons they be to be kept in one place, yet they may be kept in another; but then there can be no amercement for default of appearance. *Lam. 383, 384.*

Two Sessions at one time for one county lawfully summoned at two places, both are good, and appearance at one shall excuse default of appearance at the other, and presentments taken before either of them shall be good. *Lam. 384.*

At a generall Sessions all matters enquirable by Justices of Peace, either by their Commission or by statute, ought to be given in charge; otherwise at a speciall Sessions, *Lam. 623.* and may be held three dayes. 606. 12 *R. 2. c. 10.*

Two sorts of men owe their ordinary attendance at the Q. Sessions, (*viz.*) officers & ministers of the Court, and Jurors of the County. *Lam 386.*

Officers are the *Custos Rotulorum*, where he ought to attend by himselfe or his deputy. *Lam. 387.*

The Clerk of the Peace. *Lam. 393.*

The Sheriffe. *Lam. 395.*

The Coroners. *Lam. 394.*

“Ministers, as Bailiffes of Franchises, Constables of Hundreds, the Ordinary. *Lam. 395.*

“Jurors for enquiry and tryall. *Lam. 396.*

The Just. of P. if need require, may keep a speciall Sessions by vertue of their commission, or by the statute 2 *H. 5. c. 4.* *Lam. 623.*

Summons of a speciall Sessions is for the most part

part for some special enquiry, and not to the generall service of the commission. *Lam.* 623.

All matters within the commission or statute may at a speciall Sessions of the Peace be given in charge, yet they are at liberty to give in charge either all or any of them. *Lam.* 623, 624.

If two Justices of the Peace, one being of the Quorum, make a precept to the Sheriffe for the holding a Sessions at such a place and day, and to returne a Jury before them, other Justices cannot by their *Supersedeas* to the sheriffe inhibit him, *Cr.* 122. *b.* but the King by his writ of *Superseadeas* may discharge it. *ibid.*

A man is bound to appeare before a Justice of Peace within forty dayes after, in the mean time a generall Sessions is kept, he ought to appeare before the Justices at the Sessions. *Cr.* 123. *a.* nu. 8.

A Justice commands one on pain of 10. pound by his precept to appear at the next Sessions, & he doth not, no *Scire facias* shall go against him more then upon a *Subpœna*, but it seemeth he may be attached upon a contempt. *Cr.* 123. *a.* nu. 9.

“All that come to the Sessions for publique
“service, or upon compulsion, upon complaint
“and examination of the matter upon oath shall
“be freed from any arrest upon Originall pro-
“cess. *Lam.* 402. *Cr.* 190. *b.*

“Justice of Peace may record a force, if he
“be disturbed in coming to the Sessions, so
“that he dare not goe to the Sessions, and they
“shall be convicted by that record. *Cr.* 190. *b.*

Sewers.

Commission of sewers being expired, six Justices of Peace, two being of the Qu. may for one year after execute the lawes of Commissioners of sewers, unlesse a new bee published, 13 *El.* c. 9.

Sheep.

To transport sheep beyond the seas without licence, or to procure the same, is felony for the second offence. 23 H. 8. c. 16. 8 El. c. 3. Lam. 227, 425.

Any bringing, sending, or receiving into any bortome any sheep alive out of the Kings dominions, or procuring the same, loseth his goods, is to be imprisoned for a yeare, and then in open market to lose his left hand. 8 El. ca. 3. Lam. 456, 457.

Any keeping at one time above 2000 sheep of all sorts against the purport of the statute, loseth 3 shill. 4 pence for every sheep above 2000. 28 H. 8. c. 13.

Sheriffe.

The *Custos Rotularum*, or eldest of the Quorum in his absence, is to appoint at Michaelmasse Sessions, two Justices of Peace, whereof one of the Quorum, to have the oversight and controlment of the Sheriffe, Undersheriffe, their officers and deputies, and of their bookes and americiaments in their Countie Courts: and either of these two Justices, or one Justice of the Peace, may examine the Sheriffe or Undersheriffe and plaintiffe concerning the taking and entering plaints in their Courts and books against the statute. 11 H. 7. c. 15. Dal. 136. La. 201, 295. 600.

The particulars are, Dal. 137. Lam. 431.

1 If any plaints be entred in their Bookes in any mans name, the plaintiffe or sufficient Attourney not being in Court.

2 If the plaintiffe find not pledges to pursue his plaint, (*viz.*) such as are known in that countrey.

3 If

3 If they enter more plaints then one for one trespasse or contract.

4 If they enter more plaints then the plaintiffe supposeth he hath cause of action for against the defendant.

If upon examination the Justices find any default, it shall stand for conviction without further enquiry or examination, and they forfeit 40 shill. to the King, and to the Informer for every default, and the Justices must certifie the examination to the exchequer within a quarter of a year, on pain of 40 shill. *Dal. 137.*

The like for Bailiffes of hundreds in not warning the defendants to appear, *Dalr. ibid.*

Sheriffe shall make no estreats to levie the sheriffes amerciaments, untill the two Justices have had a view and oversight of the books, and the said estreats shall be indented betwixt the said Justices and Sheriffe, or. Undersheriffe under their seales. *Dal. ibid.*

The said two Justices or one of them may examine the defaults of collectors of Sheriffes amerciaments, whose finding of default is a sufficient conviction and forfeiture of forty shill. the examination to be certified into the Exchequer. *Dal. ibid.*

The said Justices, upon information of the party grieved, may make like processe as in action of trespasse against the Sheriffe, &c. to appeare then to answer the said information or suggestion. *Dal. 138.*

Sheriffe ought to be at the Sessions to return his precept, and keepe the prisoners. *Lamb. 395.*

In these cases following the Sheriffe, &c. doth forfeit 40. pounds, and treble dama-

*ges to the party grieved. 23 Hen. 6. c. 10.
Lam. 430, 431.*

1 Sheriffe that letteth his Bailywicks or any of his hundreds.

2 Or returneth in any pannels any Bailiffes, officers, servants, or servants servants.

3 Or refuseth to baile those that areailable, offering sufficient surety.

4 Or taketh any obligation by colour of his office, but onely to himselfe, and upon the name of his office, and upon condition onely to appear according to the writ or warrant.

5 Or having taken for an arrest above 20. d.

6 Or above 4 pence for any obligation, warrant, or precept.

7 "Or he or any other minister having taken any thing for making any return or pannell.

8 Or above 4. pence for the copy of a pannell.

9 Bailiffe for taking above four pence for making an arrest.

10 Gaoler taking above foure pence of any comitted to his ward upon arrest or attachmēt.

11 Sheriffe or his ministers that shall levie any of the Kings debts, without shewing the party the estreats under the Exchequer seale, shall be fined and pay treble damages to the party. 7 H. 4. c. 3. 42 Ed. 3. c. 9. Lam. 432.

12 Sheriffe or other his minister arresting, imprisoning, ransoming of, or levying any amerciaments by reason of any Indictments or presentments made in the Sheriffes tourne, without processe first obtained from the Justices of P. or that hath not brought in such Indictments and presentments to the Justices of the Peace at the next Sessions, loseth 10. pound. Lam. 431, 1 Ed. 4. c. 2.

Sheriffe

Sheriffe or any other who may make returne of any writ, that returneth any Juror, without true addition of the place of his abode, or within a yeare next before, or without some addition by which the Juror might be well known, loseth 5. marks to the King, and 5. marks to the party. 27 *El.c.7. Lam. 432.*

Sheriffe or gaoler denying to receive felons by the delivery of any Constable or Township, or having taken any thing for receiving such, is fineable. 4 *E.3.c.10. Lam. 434.*

Sheriffe, bailiffe, or other officer or person, refusing to pay over to the Chutchwardens, &c. the moiety of the forfeitures by the statute of 4 *Iac.* against uttering of beer or ale to alhousekeepers unlicensed, forfeiteth double value. 4 *Iac.c.4. Lamb. 434.*

Justice of Peace being chosen Sheriffe, his authority of Justice is suspēded during his Sherifewick; but after another is chosen and sworne, his authority as a Justice of Peace is as it was before without any new oath, except he be left out of the commission. *Dal. 11. & 12. Cro. 121. ann. 13, 14.*

Shoes.

Making shoes, pantofles, &c. contrary to the rules prescribed in the statute, loseth 3 shill. 4. pence for every paire of shoes, &c. and the value of them. 1 *Iac.c.22. Lam. 465.*

Shewing of boots, &c. on the Sunday, with intent to sell them, loseth 3. shill. 4. pence and the value of them. 1 *Iac.c.22. Lam. 466. vide Leather.*

Shooting.

“ Any under the degree of a Lord of the Par-
“ liament shooting within any city or towne
“ at any fowle or other mark upon any Church

“ or

“or dove-coat, or any shooting in any place
 “any hayle-shot or moe pellets then one at a
 “time, every time offending forfeiteth tenne
 “pound, and imprisonment for three months.
 2 *Ed. 6. c. 14.*

Vide Archery, Crosse-bows, Partridges.

Silke, *vide* Apparell.

Sope, *vide* Vessels.

Souldiers.

Souldier serving the King by sea or land, doeth willingly give, purloyn, or put away any horse or harnesse wherewith he was set forth, (or being taken from other souldiers was appointed to him) upon complaint thereof to a Justice of Peace, he shall be committed without bayle, till he have made satisfaction, unlesse he have been formerly punished by the Generall or other, or shew forth in writing under seal the lawfull losse thereof. 2. & 3 *Ed. 6. c. 1. Lam. 194.*

Souldiers passing out of the Realm to serve any forraine Prince, not having before their passage taken the oath of allegiance before the officer appointed thereunto, it is felony. 3 *Jac. c. 4. Dal. 288.*

Souldier being a Gentleman, or of a higher degree, or Captaine, or other officer in campe, passing to serve any forraine Prince, &c. before they be bound to the King with two sureties before the officer appointed, not to be reconciled to the Pope, &c. or to consent to any conspiracy against the King, but to disclose all conspiracies upon knowledge thereof, &c. it is felony. *ibid.*

Souldier entred upon record, and having taken presse-money, and that departeth without license, it is felony. 7 *H. 7. c. 1. 3 H. 8. c. 5. Dal. 288.* or if they

they depart without license after they have served in the kings warres, 2 Ed. 6.c. 2. *Dal. ibid.* So of mariners, and gunners that have taken presse-money to serve the King on the sea, and come not unto, or depart from the Captain without license, it is felony. 5 El.c. 5. *Dal. 288.*

In these cases following, by the statute of 39 El.c. 17. souldiers and mariners doe become felons. Dal. 288.

Such which set not themselves to some lawfull course of life, but wander up and downe idly, not having a lawfull testimony (if they come from beyond sea) from some Justice of Peace near the place of their landing, expressing the place to which they are to passe, and a time limited for their passage; or having such a testimoniall, if they shall exceed the time limited.

To forge or counterfeit such testimoniall, or to have a forged testimoniall, knowing that it is forged.

Or being retained in service after his arraignment, &c. if he depart within the yeare without license of his Master.

Poore souldier, or mariner, or sea-faring man suffering shipwrack, may have a license from a Justice of Peace next to his landing, to passe to the place of his repaire, and may aske & receive necessary reliefe in his direct passage within the time limited to him. 39 El.c. 4. 39 El. 17. *Dal. 126. Lamb. 303. 21 Jac. c. 28.*

Every parish is to be taxed to the relief of disabled souldiers, by the greater part of the Just. at their Q Sess next after Easter, so as no parish be
above

above ten pence, nor under two pence weekly to be paid, so as the totall summe in any country where there shall be above fifty parishes, doe not exceed six pence every parish. 43 *Eliz. c.3.*

The said taxatiō to be assessed within themselves, and in default thereof by the Churchwardens & pety Constables or the greater part of them, in default thereof by the Justices or Justice of Peace dwelling in the same parish, or if none be there, in the parish next adjoining. 43 *El. c.3.*

In default of payment of the same asseſse, the Churchwardens and pety Constables may levie it by distresse and sale, &c. and in their default the aforesaid Justices or Justice of Peace. 43 *El. c.3.*

The Churchwardens and pety Constables are to pay over their collections to the high Constable ten dayes before every Quarter Sessions, and the high Constables at every Quarter Sessions are to pay it over to the Treasurer. *ibid.*

If any of them make default, then the Churchwardens or pety Constables forfeit 20. shill. and every high Constable 40. shillings to be levied by the Treasurer by distresse and sale for augmentation of the stock. 43 *El. c.3.*

Treasurer for maimed Souldiers must be 10. pound in lands or 15. pound in goods in the subsidie, and continue but for a yeare, and within ten dayes after Easter Sessions following to give account to his successor, in default thereof or for other misdemeanour in his office, to be fined five pound or above by the more part of the Justices of Peace. 43 *El. c.3.*

Souldier or mariner sick or maimed by service in his Majesties pay, upon lawfull certificate thereof by the generall mustermaster or receiver of the muster-rolls, Treasurer, or Controller of the navy under his hand, is to come to
the

the Treasurer of the county where he was prest, or if he were not prest, then to the Treasurer of the county where he was borne or last dwelt three years, if he be able to travell so far; or otherwise to the Treasurer of the County where he landed, by him to be relieved according to his discretion till the next Qu. Sessions, at which time the more part of the Justices may according to their discretions grant him a pension during his life, if the said pension be not duly revoked or altered. 43 *El.c.3.*

Treasurers are to make payment quarterly of such pensions as shall be granted by the most of the Justices at the Qu. Sessions under their hands, and by them to be fined if they refuse to pay them. 43 *El.c.3.*

Pensions of souldiers and mariners, not having born offices, are not to be above 10. l. under the degree of a Lieutenant, 15. l. a Lieutenant 20. l. 43 *El.c.3.* Pensions are revocable or alterable at the discretion of the Justices in the Qu. Sessions. 43 *El.c.3.*

Treasurer where any maimed souldier or mariner shall arrive upon certificate, (though not allowed) may give a testimoniall of his owne allowance, and convenient reliefe to carry him to the next County, leading him to the place where the generall muster-master shall be: and so may the treasurer of each County, leading him thither, and from thence to the County where he is to have his pension. 43 *El.c.3.*

Treasurer is to enter into a booke, money received and disbursed, with the parties names and certificate to whom it was paid. 43 *El.c.3.*

Treasurer not allowing a certificate in the act of 43 *El.c.3.* expressed, must endorse the cause thereof on the certificate. 43 *El.c.3.*

Souldiers.

Souldier or mariner counterfeiteth a certificate, or having a pension beggeth, he shall lose his pension, and be adjudged a rogue. 43 *El.c.3.*

Souldier or mariner that cannot be relieved in the county where he was pressed, by reason that the whole taxation is imployed, shall be relieved where he was borne or dwelt the last three years at his election. 43 *El.c.3.*

Overplus of the stock for maimed souldiers is to be imployed by the greater part of Justices at the Qu. Sessions, to such charitable uses as are set downe in the statute for poore, except it be by them reserved for future pensions. 43 *El.c.3.*

Star-chamber.

The experience of the Star-chamber is the best guide and direction for a Justice of Peace. *Lamb. 175.*

Stoln goods.

After attainder upon evidence by the owner, the stolne goods are to be restored to the owner by writ of restitution awarded by the Justices before whom the attainder was. 21 *H.8.c.11.La. 586. Dal. 306. Gro. 191. a. Vide* Restitution of stolne goods.

Stewards of Courts.

Stewards of the Sheriffes Turne, Leet, or Pypowders, cannot grant surety of the Peace unless it be by prescription, but every of them may commit him to ward that shall make an affray in their presence whilest they be in execution of their office, which the steward in a court Baron cannot doe. *Lamb. 14. Dal. 2. 10 H. 6.c.7. Br. Leet. 36.*

The parishioners, and in their default the Churchwardens and Constables are to asseſſe the tax imposed upon the parish by the Justices at Easter Sessions, towards the reliefe of the prisoners in the Kings Bench, Marshalsey, Hospitals, and other losses by fire, &c. In default of them, any Justice of Peace dwelling in that parish, or (if none dwell there) the next Justice may asseſſe the same; and the same Justice of Peace or any other Justice of peace in that limit, in default of the Churchwardens and Constables, may levie the same by distresse and sale of the offenders goods, rendring to the party the overplus, and in default of distresse may commit such persons without bayle till they pay the same. 43 *El.c.2. Dal. 139.*

In all taxations observe these rules. *Dal. ibid.*

1 The most reasonable taxation of land is by the yearly value, not the quantity.

2 He that occupieth lands in his own hands in severall parishes, shall be charged in every parish proportionably for his land there.

3 The farmer shall be rated for the land, and not the lessor.

4 A man is not to be rated for his farm-rents, for that the occupier of the lands is chargeable for the same.

5 By goods in most cases a man may be rated, as well as by lands, but not both by goods and lands.

6 A man shall be charged for goods onely in that towne where the goods be at the time of asseſſement: the Constable and major part of the parishioners, upon warning given in the Church, may make such taxations by law. *Co. 5.*

67. *Br. Quin. 4. & 6. Dal. 140.*

The like may be done by the Churchwardens and

and a great part of the parishioners for Church-charges. *Dal. ibid.*

If the greater part will not meet, the officers and such as will meet may tax. *Dal. ibid.*

Where a man is charged by goods, they must be *bona notabilia*. *Dal. 140. Vide Taxations.*

Subsidie.

Upon prooffe before two Justices of Peace that a subsidy man by covin hath escaped taxation, they shall charge him at double the value of so much as he ought to be taxed at, and he shall be further punished at the discretion of the said Justices. *Lam. 336. Dal. 141.*

Suggestion, *vide* Information.

Summons of the Sessions, *vide* Sessions.

Sunday.

All persons shall diligently and faithfully resort to their parish Church or Chappel accustomed, or upon reasonable let to some usuall place where Common prayer shall be used upon every Sunday and other day ordained and used to be kept holy day, and then and there to abide orderly and soberly during the time of Common-prayer, preaching, or other service of God, or lose 12. pence for every offence to be levied by the Churchwardens there, to the use of the poore, by way of distresse, 1 *Elc. 2. Dal. 105*: though he be Popish recusant, convict or not convict. *Ibid.*

If any subject doe not resort and reparaire every Sunday to some Church or Chappel, or some usuall place appointed for Common prayer, and there heare divine Service, according to the statute, 1 *Elc. 2.* it shall be lawfull for a Justice of peace

Peace of that limit, upon prooffe by confession of the party, or oath of witnesse, to call the party before him; and if he or they make not a sufficient excuse, to the satisfaction of the said Justice, then to give warrant to the Churchwardens of the said parish under his hand and seale, to levie 12. pence by distresse to the use of the poore for every default; and for want of distresse to commit the offender to prison; every offender to be called in question within one month after the offence. *3 Jac. ca. 4. Lam. 418.*

None punished according to the branch of the statute of *3 Jac. ca. 4.* shall be punished by *1 Ed. c. 2.* for the same offence. *3 Jac. c. 4.*

There shall be no meeting, assemblies or course of people for any sports or pastime out of their owne parishes on the Lords day; nor Bear-baiting, Bul-baiting, Interludes, common-plays, or other unlawfull exercises within their owne parishes, upon forfeiture of 3. s. 4. pence to the use of the poor, upon view of one Justice of peace, confession of the party offending, or oath of one witnesse, to be levied by warrant of the said Justice under his hand and seale to the Constable and Churchwardens, in default of distresse, the offender to sit in the stocks three houres. The offender to be questioned within one month. *1 Car. cap. 1. Dal. 63.*

Carriers, waggoners, waynmen, drovers, shall not travell with horse, wagons, carts, or cattle upon Sunday, upon pain of twenty shil. for every offence. Neither shall any Butcher kill or sell victuall upon Sunday, on pain of 6. s. 8. pence, upon view of one Justice of Peace, confession of the party, or oath of two witnesses, the penalty to be levied by the Constable or Churchwardens to the use of the poor by warrant of any Justice
of

of Peace by distress, or by any that will sue for the same at the Q. Sessions in the same county, within 6. months, his reward not to be above the third part. 1 Car. 6. 1. Dal. 134.

Shewring of boots on the Sunday, with intent to sell them, loseth 3. s. 4. peace, and the value of the boots. 1 Jac. 6. 22. Lam. 466.

Superfedeas.

Superfedeas is sufficient, though it neither name the sureties, nor containe the summe wherein they are bound; but it is better if it doe both. Lam. 96. Dal. 172.

Superfedeas delivered to the officer, if he urge new sureties, the party may refuse; and if he be committed, he may have his action. Lam. 99. Dal. 172.

Superfedeas out of the Chancery will discharge surety of the Peace in the Kings Bench, and either of them a precept for the peace awarded by a Justice of peace, and an attachment lyeth against him if he surcease not, and he may be imprisoned and fined for it. Lam. 99. Dal. 172, 173.

Superfedeas received by a Justice of Peace out of an higher Court, he should forbear to make any warrant, or if one be made, to send out his *Superfedeas* to the Sheriffe or other officer to delist to put it in execution. Lam. 99. Dal. 172.

Superfedeas out of the Chancery is to be certified at the next Sessions, together with the recognisance for the Peace, if the *Superfedeas* doe restifie that he hath found surety in the Chancery only unto a certaine day, which day is after those Sessions if the *Superfedeas* come to his hands after his recognisance taken. Dal. 173. Lam. 113. for peradventure the recognisance was broken before the *Superfedeas* purchased.

Superfedeas

Supersedeas for the good abearing, *quare* if it may be granted by a Justice of Peace, *Lam.* 123. *Dal.* affirmeth it, 197.

A *Supersedeas* made by a Justice of Peace, and returned under his seale, is a sufficient record to prove a recognisance taken for the Peace, and warrant to call the party bound, and if he make default, to record the same. *Lam.* 97.

If a Justice of P. will by a *Supersedeas* discharge a Precept for the Peace awarded by another by vertue of his office and not by *Supplicavit*, the recognisance would be taken according to the forme of the precept, *Lam.* 96. *Dal.* 172.

Certiorari to remove a record is in it selfe a *Supersedeas* to the Justices, yet the party may have a *Supersedeas* to the Sheriffe that he arrest him not upon the Justices record. *Lam.* 515.

Whether the Justices *ex officio* after a *Certiorari* ought to award thereto *Supersedeas*, to stay proceeding upon the record, *quare* *Lam.* *ibid.*

An exigent awarded against one indicted of a trespass before the Justices of Peace, may be stayed by *Supersedeas* out of the Chancery, upon surety found there to appeare at the day in the Writ, though he be taken upon it. *Lam.* 526. 527.

So by *Supersedeas* granted by two Justices of Peace, one being of the *Quorum*, testifying that he hath found sureties, *de fine assidendo*. *Lam.* *ibid.*

Yet *Dal.* and *Cro.* say, by one Justice of Peace. *Dal.* 319. *Cro.* 234. a.

If a *Supersedeas* be directed to Justices of Peace and Sheriffe, the Justice to whose hands it shall be delivered, may keep it, and deliver the labell to the party. *Dal.* 173.

Supersedeas granted for the Peace or good behaviour out of the Chancery or Kings Bench, is void,

void, unlesse it be upon motion in open Court, and upon surerries of five pounds in lands, or ten pounds in goods in subsidie, "and unlesse it appeare to the Court that such proces of P. or "good behaviour is prosecuted against the definer of such *Superfedeas bona fide* by some griev'd in that Court out of which the *Superfedeas* as is desired. 21 Jac. c. 8. Dal. 174.

Whether the party bound, sending the *Superfedeas* to the Sessions, be discharged of his appearance there, *quare* Dal. 173. Lam. 113. the presidents are, that the party appeared and pray'd allowance, &c.

Supplicavit.

He onely to whom the Writ of *Supplicavit* is delivered, must execute it. Dal. 186.

The Justice, that receiveth the Writ, may make the Warrant to the Constable or other party indifferent; and if he refuse to find surerries, to carry him to prison. Dal. 186.

The party attached, can be bound onely before him that sent out the Warrant. Dal. 186.

The Justice is to execute the *Supplicavit* as it directeth. Dal. 187.

If the summes be left to discretion, it is safe to take good summes. Dal. *ibid.*

After surerries taken, the Justice may make him a *Superfedeas*. Dal. 187.

The Justice needs not returne the *Supplicavit*, nor make certificate untill a *Certiorari* doe come to him; Lam. 109. Dal. 190.

Supremacy.

To refuse the oath of Supremacy, the first offence is *Premunire*, the second Treason. 5 Eliz. c.

Surety of the Peace is the acknowledgement of a recognisance to the King (taken by a competent Judge of record) for the keeping of the Peace. *Dal. 161. Lam. 75.*

Every Justice of Peace may take and command the peace either as a Judge or a Minister. *Dal. ibid.*

Justice of peace may command surety of the Peace, either of his owne discretion, or at the prayer of another.

In what cases a Justice of Peace may command surety of the Peace by his owne discretion. Dal. 162.

1 One that maketh an affray upon the Justice himselfe, or an assault.

2 Such as in his presence make an affray upon another, or offer to strike another.

3 Such as in his hearing shall threaten to kill, beat, or hurt another, or to burn his house.

4 Such as in his presence contend only in hot words.

5 Such as in his presence goe or ride armed offensively, or with unusuall number of servants or attendants. And servants and labourers that bear any weapons contrary to the statute of 12. R. 2. c. 6.

6 Any person by him suspected to be inclined to break the peace.

7 If the Constable bring one before him that shall threaten to kill, maime, or beate another.

8 If the Constable bring one who, in his presence attempted to break the Peace by drawne weapon, striking or assaulting another.

9 Whom the Constable findeth fighting or quarrelling in a house, he may break open the door and bring them before a Justice of Peace to be bound.

10. He

10 He may make his warrant for such as have made an affray, and binde them to the Peace.

11 If one have received a wound, he may bind the one and the other til the wound be cured, and the malice over.

12 Such as goe or ride armed offensively to faires or markets, or wear or carry dags or pistols charged.

13 Common Baretours, *Dal.* 163.

10 Rioters.

15 Him that standeth bound to keep the Peace and hath forfeited his recognisance by breach of the Peace; but not till he be convicted, and the forfeiture leyed. *Dal.* 163. Yet *Cro.* 141. saith that he may be bound anew if he be only convicted for breaking the Peace.

16 Him that standeth bound if his sureties be insufficient.

Justice of peace is to send to prison him that refuseth to give sureties, untill he find sureties. *Dal.* 163. *Cro.* 138. *b. nu.* 8.

Justice of peace may cause one to be arrested to find surety of the peace against another, and grant a warrant for it, for he might have bound him of his own authority. *Dal.* 103.

“Justice of peace may perswade a man to re-
“quire surety of the peace, against another, and
“grant a Warrant for it: for he might have bound
“him of his own authority. *Lam.* 78. *Da.* 162, 336.

At the request of another he may command surety of the peace, but must first take an oath of the party that demandeth the peace, that he standeth in fear of his life, or of some bodily hurt, or to have his house burnt. *Lam.* 83. *Dal.* 163.

“Sureties in a recognisance ought to be two,
“and registred in Subsidy, for though some may
“be sufficient which were not assessed, yet it
“stan-

“ standeth not well together, that he should be
 “ bound to the King in 10. pound or 20. pound
 “ that in subsidy was not found worth any thing.
Dal. 175.

Justices of Peace in Sessions may examine
 sureties upon oath of their sufficiency. *Dal. 175.*

Causes to require surety of the Peace.

1 He that is threatned to be hurt in body, as
 to be beaten, wounded, maimed, or killed. *Dalt.*
 164.

2 He that feareth another will beat, wound,
 maim, or kill him. *Dal. ibid.*

3 He that feareth another will burn his house.
Dal. ibid.

4 He that feareth that A. will procure another
 to hurt him in his body, or burne his house. *Dalt.*
 164.

5 If a man lie in wait to beat, kill, or hurt ano-
 ther. *Dal. ibid.*

Quere, if he threaten to burn his goods.

In what cases a man shall not have the Peace granted.

1 To threaten one to imprison him. *Dal. 164.*
Lam. 82. Cro. 135. a. Quere tamen. Br. Peace 22.

2 Where one is in feare that a man will hurt
 his servant, cattle, or other goods. *Dal. 164. Cro.*
138. a. Lam. 83. but may have a writ out of the
 Chancery. *Dal.* seemeth to be of the other opi-
 nion. 164.

3 Because he is at variance with his neighbour.
Dal. 164. Lam. 83.

4 Where there is no feare of present or future
 danger. *Dal. 164. Lam. 84.*

5 For a battery past: yet a Justice if he see cause,
 N may

may bind over the affrayers. *Da. 165. Pax Regis 14.*

Justice of Peace may deny to grant surety of the peace, if it be upon meere vexation ; yet if the party will take his oath, it is not safe to deny it. *Dal. 165.* yet afterwards perceiving it to be of malice and for vexation , may bind the party so requiring it to his good behaviour.

Against whom Surety of the Peace may be granted.

Against a Knight, or any person under the degree of a Baron. *Dal. 166.*

Against Sheriffe, Coroner, Eschaetor, or other officer of Justice. But it is not good to bind them *versus cunctum populum.* *Dal. 166. Lam. 80, 81.*

Against any Ecclesiasticall person not doing divine Service in the Church or Churchyard, or other place dedicated to God. *Dal. 166. 50. Ed. 3. c. 5. 1 R. 2. c. 15.*

One Justice of peace may grant the surety of the peace against his fellow Justice, though sitting in Sessions. *Cro. 134. b. Dal. 167. Lam. 80.*

One Justice of Peace may demand the peace against another man. *Lam. 81. Dal. 167.*

The wife may demand the Peace against her husband, if he threaten to kill her, or outragiously beat her, or have notorious cause to feare it ; and the husband may crave the peace against his wife. *Dal. 167. Lam. 78. Cro. 133 b.*

The Peace may be granted to a feme-covert, or an infant under the age of 14. years, if he have discretion to crave the P. but they must be bound by sureties, and an infant under that age may demand it. *Dal. 167. Lam 79.*

A Lunatick may crave the peace, and have it granted him. *Dal. 167. Lam. 79.*

It may be granted against one attainted either
of

of treason or of felony, or convict of heretic. *Dal.* 168. and they may demand it. *Lam.* 79.

It may be had against an excommunicate person. *Dal.* 168. and an abjured person. *ibid.*

It may be had against one attainted in *Præmunire*, and against an alien either made denison, or living in England. *Dal. ibid.*

It may be had against one dumb and blind, so against an impotent person. *Dal.* 168. *Lamb.* 79.

Against whom the Peace cannot be granted.

1 It cannot be granted against any Nobleman, or Noblewoman. *Dal.* 165.

2 Against one *non sane memorie*, unless he have *lucida intervalla*. *Dal.* 167. *Lam.* 79.

3 Against one born dumb and deafe; but if he become dumb and deaf, or made blind and deafe accidentally, he may have understanding, and the peace may be granted to him or against him. *Dal.* 168.

How the surety of the Peace is to be commanded and executed.

A Justice of Peace may } word,
command the Peace by } writing.
By word.

The party being present in the presence of the Justice of peace, threatneth another, or maketh an assault or affray upon another, or doth any other act tending to the breach of the Peace. *Dz.* 169. *Cro.* 138 b. nu. 8. *Lam.* 84, 85.

One demandeth the surety of the Peace, being present, and taketh his oath he is affrayed, &c. the Justice may command the other to find surety. *Dal.* 169. *Cro.* 138 b. *Lam. ibid.*

The Justice in such cases may command the

Constable or other known officer, or his own servant being present, to arrest such party to find surety of the Peace, and may commit to the Gaol such party refusing to find surety. *Dal. Cro. La. ib.*

By writing.

The Justice by precept or warrant in writing under his seale directed to some knowne officer, or other indifferent person, containing the cause & at whose suit, to the end the parties may provide the sureties, and take them with them. *Lam. 87. Dal. 170.*

The Justice may make his warrant to bring the party before him, but the usuall manner is to bring the party before the same Justice, or some of the Justices of the County. *Dal. 170.*

Who may serve the Warrant, vide Warrant.

The Constable is first to acquaint the party with the matter in the warrant; and if he refuse to goe before the Justice to find sureties, he may arrest him and carry him to the Gaole, without carrying him to the Justice. *Lam. 90. Dal. 170. Br. Faux Imprison. 18.*

If the party yeeld to find surety, the officer is not bound to goe up and downe with him, but may keep him untill he can procure sureties to come to him; if afterward he make resistance, or offer to goe away, he may by his warrant carry him to the Gaole, and set him in the stocks till he can get aid to convey him to the Gaole. *Dal. 170. Lam. 92.*

The arrest is not justifiable except the Officer doe carry him to the Gaole that refuseth to find sureties. *C. o. 171. b. Dal. 171.*

The party may goe before any other Justice (if the warrant proceed *ex officio*) to offer the sureties, but cannot force the Officers to travell out of the division where they dwell. Nay it is at the election

on of the officer to carry the party to any other Justice, rather then to give the election to the delinquent. *Dal. 171. Lam. 94.*

The party comming before the Justice is to offer his sureties, or else the Justice is to commit him, for the Justice needeth not to demand them. *Dal. 171.*

If the party refuse before the Justice of Peace to find sureties, the Officer by the first Warrant may commit him. *Dal. 171. Lam. 92.*

The Officer is fineable if he arrest the party, and doe not carry him before a Justice of peace, if he be willing to find sureties; secondly, if upon refusal they arrest him, and doe not carry him to the Gaole. *Dal. 171.*

The party being imprisoned, the Justice of P. may make him his *Liberate*; first, if the complainant die; secondly, if he doe enter surety of the peace. *Dal. 171.*

If the imprisoned have a suit depending in the common pleas, by some opinions, the imprisone d may be discharged by a writ of priviledge. *Quere tamen, Dal. 171. Lamb. 94. Cro. 138. a. nu. 4.*

A sworne and knowne officer needeth not to shew his Warrant, but the servant of the Justice must shew it if it be required. *Lamb. 89. Dal. 340.*

If Husband and Wife be bound to appeare, and in the meane time to keepe the peace, and the Husband onely appeareth, the recognisance is not forfeited. *Dal. 179. Quere Cro. 144. b.*

Suspicion and suspects of felony.

A suspect of felony ought not to be arrested by a Warrant from a Justice of peace, unless he be indicted before; for if the Bailiffe which serveth the Warrant doth suspect him, he may doe it of himselfe without a Warrant; and without su-

suspicion the Justices warrant is no warrant. *Lam.* 188. *Da.* 339. *Cro.* 147. *b.* 148. *b.* 197. *a.* nu. 21. *Quere* *Dal.* 339. *Br. Faux Imprif.* 8.

Suspicion onely without felony committed is no cause to arrest another. *Cro.* 154. *a.* nu. 28. *Dal.* 331. *Brook* *ibid.* 1.4.

A felony being committed, every man may arrest suspicious persons that be of evill fame, & c. and if such person make resistance, the other may justifie to beat him. *Dalt.* 345.

The Constable or other person that arresteth one for felony or suspicion, must himselfe suspect. *Dal.* 311, 345. *Cro.* 99 *b.* nu. 43.

In an arrest for suspicion of felony, the party that causeth the arrest must suspect him, and also shew some cause of suspicion: otherwise every man may arrest another for felony done. *Cro.* 99. *b.* nu. 44. *Dal.* 311, 312. where he maketh a *quere*.

Swans.

Taking away from his owne or another mans ground Swanseggs of another mans, upon conviction and examination of witnesses is imprisonment for a yeare and a day, and losse of ten pound *Lam.* 446.

To steale Swans unmarked, if they be *domiti*, and kept in a mans manor or private rivers, is felony. *Dal.* 167.

Swearing.

He that sweareth or curseth, being convicted by hearing of any Justice of the peace, or by oath of two witnesses, or confession of the party before a Justice of peace, loseth 12. pence to the poore, where the offence shall bee committed, to bee levied by distresse, the offence being proved within 20. dayes, or for default of distresse, to be set

Taxations. Tavern-keeper. 283

set in the stocks three houres, 21 *Iac. c. 20. & 3. Car. cap. 4.*

The warrant for distresse is to be made to the Constable, Churchwardens, and Overseers of that parish where the offence is committed. 21 *Ja. cap. 20.*

The offender being under twelve yeares of age, and not forthwith paying his 12. pence, by warrant of a Justice of Peace, or head-officer, is to be whipped by the Constable, or by the parent or master in his presence. *Ibid.*

Taxations, *vide* Stock of the shire.

Taxations made for a Common-wealth, as making or mending of bridges, highwayes causeys, sea-banks, &c. shall be upon all persons though they assent not. *Dal. 141. Coke 5. 63. Dr. Customs 6.*

A towne is amerced, and by assent of neighbours every inhabitant is assessed, and they appoint I. S. to collect it, and for non-payment such a day, to distreine: such a distresse taken by I. S. for rates is good. *Dal. 141. Brooke Customs 6. Coke 5. 63. Doctor & Student 74.b.*

Tale-bearers, *vide* News.

Tanners, *vide* Leather.

Taverne-keeper.

Assignment of such as shall keepe a Taverne to utter wine, is to be made at the generall Sessions, unlesse it be otherwise by especiall grant. 7 *Ed. 6 c. 5. Lam. 614.*

Testimoniall.

Testimoniall under the hand of one Justice of Peace sealed, is sufficient to passe in hay time

and harvest-time from one County to another. *La.* 190.

In all testimonials and passports, some assured marks of the party, by which he may infallibly be distinguished and knowne from others, are fit to be specified. *Lamb.* 206.

Testimoniall for a serving-man turned from his masters service, or whose master is dead, ought be to made by two Justices of Peace. 27 *El. c.* 11. *Lam.* 331. *Dal.* 127. maketh a *Quere.*

None retained in husbandry is to depart without Testimoniall at the end of his terme. 5 *El. c.* 4. *V. de Servanis.*

Theft.

Theft is a fraudulent and felonious taking of another mans personall goods, in the absence of the owner, and without his knowledge. *Lam.* 272 *Dal.* 262.

Theft is either Grand-larceny, or Petie-larceny.

Grand-larceny is when goods stollen are above 12. pence, and it is felony of death, except the party be saved by his book. *Dal.* 263.

Yet if the goods be of more value, and the Jury find it did not exceed 12. pence, it is not Grand-larceny. *Dal. ibid.*

Pety-larceny is if the goods doe not exceed 12. pence, and it is not felony of death, but imprisonment for some time, or whipping, or some other punishment by the discretion of the Justices before whom the party is arraigned. *Dal. ibid.*

For pety-larceny, the Justice of peace before whom the offender shall be brought, is not to punish him, but either to send him to the house of correction, or to baile him. *Dal. ibid.*

Pety-larceny is forfeiture of goods and chattels.

Six pence, foure pence, and three pence, being taken

taken by one at severall times from one and the same person, may be put together in one indictment. *Dal.* 263. *Lam.* 273. *Stam.* 24.

If two, or more, steale above 12. pence from one, it is felony of death in every one. *Dal.* *ibid.* *Lam.* 173.

The manner.

To make an act larceny, there must be first a taking; secondly, a carrying away. *Lam.* 277. *Dal.* 263.

Yet it may be felony though the offender came to it by the delivery of the owner. *Lamb.* 178.

As,

A Taverner setteth plate before his guests to drink in, and his guests carry it away; it is felony. *Dal.* 264. *Lam.* 278. *Cro.* 35. b. nu. 4.

A Carrier carrieth goods to him delivered to the place appointed, and there breaketh them up; and embezelleth them; it is felony. *Dal.* 264. *Cro.* 36. a. nu. 13. *Lam.* 279.

A Carrier taketh out parcels of the goods to him delivered; it is felony. *Dal.* 264. *Cro.* 36. a. nu. 11.

A Carrier conveyeth them to another place, & there breaketh them up, and conveyeth part or all to his owne use; it is felony. *Dal.* 264. *Lam.* 278.

Where, after delivery, the imbezelling is no felony.

A Carrier imbezelling the whole. *Lam.* 278. *Cro.* 36. a.

A stranger borroweth a horse, and rideth away.

A Clothier delivereth his wooll to his work-folk.

One delivereth his goods to another to keep.

One delivereth money to A. to pay B.

Felony

*Felony in servants by force of the statute,
5 El. cap. 10.*

Servant of the age of 18. yeares (other then an Apprentice) to whom any money, goods, or chattels, &c. by his Master or Mistresse shall be delivered to keepe of the value of 40. shillings, or above; if he goe away with, or convert the same to his own use, with intent to steale the same, or to defraud his master or mistresse, it is felony, if it be prosecuted within a yeare. *Lam. 279. Dal. 265.*

Wherein are drivers cases.

A man receiveth of his master 20 pound in gold to keepe, which he changeth into silver, and runneth away with it, they are both of one nature, therefore felony. *Dal. 265. Lam. 280. Cro. 35.b. nu. 6.*

One servant delivereth to his fellow-servant to the value of 40. shillings of his masters goods, and goeth away with it, or converteth it to his owne use; it is felony. *Dal. ibid. Cro. 50.a. Lam. 280.*

A servant maketh a garment of his masters cloth, and goeth away therewith; it is felony. *Dal. 265. Cro. 50.a.*

Quere of barley converted into malt, or money melted into a piece of metall. *Dal. 266.*

An obligation is delivered unto a servant, and he goeth away with the money received upon the same obligation; it is no felony within the statute of 5 *El. c. 10.* for the master delivered not the money. *Dal. 265. Cro. 35.b. nu. 5. 50.a.*

The servant carrieth his masters wares to market, selleth them, & goeth away with the money, or converteth it to his owne use; it is not felony within the statute of 5 *El. c. 10. Dal. 266. Cro. 50.a. Lam. 280.*

A receiver receiveth rents, and goeth away with them, it is no felony, for the statute is, where the master delivereth to keep. *Dalt.* 266. *Cro.* 50. a

I deliver to my servant a horse to ride to market, or money to buy things or pay another, and he goeth away with it; it is no felony at the Common-law, for it was of his masters delivery. *Dal.* 266. *Cro.* 35. b. nu. 7. *Quere* if it be not felony by 5 *El.* c. 10.

My shepherd selleth my sheep falsely, it is felony. *Cro.* 35. b. nu. 9. but *Stamf.* 25. a. è contra.

A servant keepeth the key of his masters chamber doore, and taketh away above the value of 12. pence, it is felony at the Common-law, for they were not delivered him. *Dal.* 266. *Lam.* 279.

A guest taketh the sheets or other goods of the hoste feloniously into some other room of the house, it is felony *Dal.* 266. *Cro.* 35. a. nu. 2. *Lam.* 281. *Br. Coron.* 307.

A man feloniously taketh an horse, and is apprehended before he gets out of the close where he went. *Lam.* 281. *Dal.* 267. *Cro.* 36. a. nu. 12.

Not enquirable before Iustices of Peace.

A servant taketh away or spoyleth his deceased masters goods; in default of appearance in the Kings Bench after Proclamation, it is felony. *Dal.* 266. *Cro.* 56. a. 6. 33 *H. 6. cap.* 1.

Of what things felony may be committed.

Of moveable goods, as money, plate, apparell, household-stuffe, &c. so of corne, hay, trees, fruit, &c. being severed from the ground. *Da.* 267. *La.* 273.

Of

Of domesticall things, as horses, mares, colts, oxen, kine, sheep, lambs, swine, pigges, hennies, geese, ducks, turkeyes, or any other domesticall beasts or birds of tame nature: and though they runne or flie away out of the owners sight, the detainer is punishable by action. *Dal.* 267.

Of wild nature, young pigeons out of another mans dove-house, young hawks or herons breeding in Parks or severall grounds, fishes kept in a trunk or pond. *Cro.* 36. b. nu. 12. *Lamb.* 274. *Dal.* 267. *Stam.* 25. sayeth gosshawks.

Quere of old doves in a dove-house. *Lamb.* 274.

So swans marked, and at large, and tame deer marked and domesticall, if the taker know it to be tame. *Dal.* 267 *Lam.* 275. *Cro.* 36. b. nu. 23.

By statute it is felony to hunt deere, or conies after some sort in park, forest, or warren, or to take a tame beast or other thing in a park, by manner of robbery. *Vide* 3 E. 1. ca. 20. 1 H. 7. c. 7. *Lam.* 275. *Dal.* 268.

So to take away or conceale an hawk *ibid.*

To steale the flesh of tame or wild fowle dead, is felony. *Stam.* 25. *Lam.* 275. *Dal.* 269.

To pull wooll off the sheeps backs, or to kill them for their skins. *Dal.* 269. *Cro.* 36. a. nu. 17. *12 nb. ib.*

A man may commit felony in taking his own goods: As, I lend or deliver goods to another to keep, and after take them away feloniously or fraudulently, to recover the same by action of Detinue. *Dal.* 270. *Cro.* 37. b. nu. 42. b. *Stam.* 26. a. *Lam.* 77. *Br. Coro.* 142. *quere.*

I lend or deliver my plate or goods to another who melteth my plate, or changeth the fashion of my goods; to take them feloniously is felony in me. *Dal.* 270. *Cro.* 37. a. nu. 34. *Lam.* 277.

If a man pursue or take a felon that hath stollen his goods; taketh them and suffereth the thiefe to escape, he is no accessory; for he may *agere civiliter aut criminaliter in initio*. *Lam. 290. Termes of Law. Titu. Theftboote. Cro. 37. a. 45. b. 43. b. P. R. 131. Dal. 296.*

If the party robbed take money, &c. of the thiefe, to the end that he shall not give evidence against him, whereby the thiefe escapeth, he is accessory to felony of his owne goods. *Lamb. 290. Dal. 296. Cro. 41. nu. 5.*

Quare, if a man having made complaint to a Justice of Peace, take his stollen goods againe, and doth not prosecute the matter, whether it make him nor accessory, for that he did once *agere criminaliter*. *Dal. 296.*

Of what things felony is not committed.

Things which are reall chattels. *Lam. 275, 276. Dal. 270.*

To cut downe any tree or corne, or pull any apples, or carry them away, *Dal. 270. Lam. 276.* Being cut and gathered for one, and then for another to carry them away, it is felony: or if a stranger cut at one time, and carry away at another time, it is felony, *Dal. 270. Cro. 36. b. nu. 16. Lam. 276.*

Lead upon an house or Church is part of the freehold. *Dal. 270. Cro. 37. a. nu. 33.*

Evidence of a mans land, indenture of lease, or other writings in box or out of box, cannot be valued. *Lam. 275. Dal. 270.*

To take away an infant in ward, is no felony. *Dal. 270. Lam. 276.*

Treasure trove or hidden, wreck of the sea, goods

goods wayved or strayed; for the owner is unknowne. *Lam.* 276. *Br. Coren.* 96. *Dal.* 270.

But felony may be committed by taking *bona ignoti*, or *mortui & ignoti*, or *parochianorum*, or of a Church or Chappel, or of a Corporation in time of vacation. *Lam.* 276. 277. *Dal.* 270.

What persons are chargeable in larceny.

A woman covert by her selfe, her husband not knowing thereof, committeth larceny as principal, if she steale another mans goods; or as accessory, if she receiveth the thiefe that stole them, or receiveth the stolen goods into her house, knowing them to be so, or locketh them up, and the husband knowing thereof, the law will impute the fault to him, not to her: but if the husband so soone, as he knoweth it, forsake his house, and her company, and remaine elsewhere, he shall not be charged for her offence. *Sta.* 26. *P.R.* 130. *Lam.* 282. *Dal.* 271.

The husband delivereth goods to a stranger, the wife stealeth them from the stranger; it is felony in the wife. *Dal.* 271.

A stranger goeth away with another mans wife, and against her will carrieth away her husbands goods, it is felony in the stranger. *Cr.* 35. a. nu. 2. *P.R.* 130. *Dal.* 271.

A servant stealeth by the compulsion of his master, it is felony in both. *Cr.* 37. a. nu. 37. *Dal.* 273.

Who are not felons.

A wife stealeth by the compulsion of her husband, it is no felony in her. *Cr.* 36. b. nu. 17. & 137. a. nu. 36. *Lam.* 282. *Dal.* 271. but to doe murder by her husbands compulsion, is felony in both.

Dal.

Dalt. ibid. Cro. 37. a. nu. 38.

A wife stealeth by commandement of her husband without constraint, *quere Dal. 271. Stam. 26. P. R. 130. Lam. 281.*

The husband and wife together steal goods, it is felony in the husband only. *Dal. 271. Stam. 26. Lam. 282.*

A wife stealeth goods delivered to her husband, it is no felony *Dal. 272. Cro. 37. a. nu. 35.*

The wife stealeth her husbands goods, and delivereth them to strangers, it is felony in neither. *Dal. 272. Stam. 27. Lam. 282. Cro. 35. a. nu. 2.*

The wife receiveth the husband being felon, and relieveth him, she is no accessory. *Cro. 42. b. nu. 22. Dal. 272. Stam. 26 f.*

An idiot, lunatick, dumb and deafe person, & an infant are chargeable in larcenie after the the same sort as they are chargeable in homicide. *Lam. 282. Dal. 273, 295. Vide Manslaughter.*

Threatning.

He that shal be threatned to be hurt in his body, to be beaten, wounded, maimed, killed, may crave and have the Peace against the other. *Dal. 164. Lam. 82.*

If a man be threatned to have his goods burned, *quere* if he may have the Peace. *Dal. 164. Lam. 82.*

To threaten to imprison a man, is no cause of the craving of the Peace; for the wronged may have his action of false imprisonment, or his writ *de homine replegiando*. *Dal. 164. La. 82, 83. Quere.*

To enter peaceably into an house, &c. and put out B, and presently threaten and say to B, that if he doe come thither again to enter, he will kill him; this seemeth a forcible entry: and if B, come againe to make his entry, then if the other shall

shall threaten to kill him, if he entreth, it is a forcible detainer. *Dal. 202. Cro. 70. b. nu. 39.*

Tile-making.

One Justice of Peace may enquire, heare, and determine by his discretion, as well by examination of the offender, as otherwise, the offence committed in tile-making, and asseſſe the fine therein limited, and may appoint men skilfull to be searchers. *Quare tamen* whether one may doe it alone, *Lam. 193, 194. Dal. 144. 17 E. 4. c. 4.*

Earth for tile is to be digged before the first of November, and to be turned and stirred before the first of February following, and to be tryed from stones, veines, and chalk, and not to be wrought before March following, or lose double the value to the buyer. *17 E. 4. c. 4. Lam. 468.*

Plain rile put to sale, is to be ten inches and an halfe long, 6 inches and a quarter broad, 3 quarters of an inch thick, or lose 5 shillings a hundred. *17 E. 4. c. 4. Lam. 468.*

Roofe tile must be 13 inches long, half inch & half quarter of an inch thick, conveniently deep, or lose 6 shill. 8 pence an hundred. *ibid.*

Gutter tile must be 10 inches and a half long, of convenient breadth, depth, and thicknesse, or lose two shillings an hundred, *ibid.*

Searchers of tile, for every default in searching, lose 10. shill. *ibid.*

Tipling.

The Inne keeper, Victualler, Alehouse-keeper, that suffereth any to continue tipling in his house, shall forfeit 10. shill. to be levied by distresse, by warrant from one Justice of Peace, and to be sold after 6 dayes; for want of distress

to be sent to the Gaole till payment be made.
1 Iac. c. 9. 7 Iac. c. 10. 1 Car. c. 4. La. 192.

The oath of Constables, Churchwardens, Head-borowes, Tithingmen, and Aleconners, are to be enlarged, and extend to present all offences against the statutes of *1 Iac. c. 9. and 4 Jac. c. 5. 2 1 Jac. c. 7.*

Any continuing tipling in an Inne, Victuallling-house, or Alehouse, shall forfeit 3. shill. 4 pence to the poore, or not being able to pay the same, shall sit in the stocks foure houres. *1 Iac. c. 9. 7 Iac. cap. 10. 2 1 Iac. c. 7. vide Alehouses. 4 Jac. c. 5.*

Tithes.

Two Justices of Peace, one being of the *quorum*, upon complaint by any competent Judge of tithes, for any misdemeanour of the defendant in a suit of tithes, may cause him to be attached and committed to ward, till hee finde surety by recognisance to obey the sentence & processe of the Judge, *27 H. 8. c. 7. 27 El. c. 11. Lam. 357. Dal. 141.*

Upon complaint in writing by an ecclesiasticall Judge that hath given definitive sentence in case of tithes against one wilfully refusing to pay the tithes or summe of money adjudged, two such Justices of Peace may cause the party to be attached and imprisoned, till he finde surety to performe the sentence. *32 H. 8. c. 7. Dal. 144. Lam. 357. Cro. 197. a. nu. 22.*

Toll.

Miller taking Toll by heaped measure, is to bee fined. *31. Ed. 1. de pistoribus. Lam. 461.*

Miller taking excessive Toll, (*viz.*) more then the twentieth, or twenty fourth part of the corn
 accor-

according to the force of the water, or by a Toll-dish not agreeing with the Kings measure; or otherwise then by strike, shall be grievously amerced. *51 H. 3. c. 3. Cro. 92. a.*

A Miller shall have Toll of a bushell of hard Corne, three wine pintes, and of a bushell of Malt but one pinte, if the Corne be brought to the Mill; for that a Mill will grinde three bushells of Malt as soone as one bushell of hard Corn, *Cro. 92. a. quere*, for *51 H. 3. c. 3.* doth not expresse so much. *vide Dal. 151.*

Toll-gatherer for horses taking above a penny for one contract or entring the parties names, and that in the same place only where the market or faire is, and between ten of the clock in the morning and Sunne-setting, loseth ten shill. and is to answer the party grieved. *2 & 3. P. & M. c. 4. Lam. 471, 472.*

Toll-taker not knowing the seller of an horse, mare, &c. the seller may bring one credible witness that will testifie he knoweth the sellers name, mystery, and dwelling place, and there to enter them with the true price of the horse, or loseth *5 l. 3 s. 1 Eliz. c. 12. Cro. 91. a. Lam. 472.*

Any giving testimony to the toll-taker, unlesse he doe truly know the same, loseth five pound *ib.*

A thiefe selleth a stolen horse, by a false name, and is so entered into the Toll-book, such mis-naming maketh the sale voyd. *Dal. 74.*

Toll-taker refusing to give to the buyer or taker of such an horse, &c. a true note in writing of his entry, the party paying two pence for the same, loseth *5 l. 3 s. 1 El. c. 12.*

Transportation.

Every man may transport corn, it being at the prices

Transportation.

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prices following, except it be forbidden by proclamation. 1 *lac. c. 25.* 2 1 *lac. c. 28.* 3 *Car. c. 4.*

Wheat	} a quarter	26 shill. 8 pence.
Rye and		
Pease		15 shill.
Barley and		
Oats	}	14 shill.

Every subject borne within the Realm when the prices of corne at the times, places, and havens when and where the said corne shall be bought, shipped or laden, exceed not the rates following, may carry and transport of his own, and buy to sell againe in markets, or out of markets, and to keep, or sell, or carry, or transport any of the said corne from the places where they shall be of such prices, unto any parts beyond the seas in amity with his Majesty, in English vessels, or carry or sell in other places within the realme, except where such transportation shall be forbidden by the Kings Proclamation. 3 *Car. cap. 4.*

Wheat	} a quarter	32. shill.
Rye		
Pease and		20. shill.
Beans		
Barley	}	16. shill.

Every man may transport any beere, when the price of a quarter of Malt exceedeth not 16. shillings.

Traverse.

Traverse is the denying of the chiefe matter in an indictment. *Lam. 540.*

Traverse upon a forcible entry or detainer found upon presentment, *quare* before whom the traverse is to be made or tendred. *Lam. 158.*

Notwithstanding offer of traverse upon enquiry

quiry of a force, the Justice of Peace must make the restitution by the statute of 8 H. 6. or else deliver or certifie the presentment in the Kings Bench. *Lam.* 158. *Dal.* 60.

Traverse lyeth where one Just. of P. alone will take upon him to record a riot that he seeth, & the party shall not be concluded thereby. *Lam.* 182.

Traverse of an indictment of felony or treason is not usual. *Lam.* 541.

Traverse of an indictment may be before the Justices of Peace. *Lam.* 542. If the Court where the presentment is found cannot award processe thereof, it cannot receive a traverse of the presentment, as a leet of bloodshed. *Lam.* 542.

That Court that may award processe *ad respondendum* upon an indictment, may take a traverse of it. *Lam.* 543.

Presentment of bloodshed found in the Sheriffs turne, and sent to the Justices of Peace, cannot be traversed before them. *Lam.* 542.

One of the enquests presents himselfe, it is not traversable. *Lam.* 543.

Where processe *ad respondendum* goeth out upon an indictment that is traversable, the party may offer and have his traverse. *Lam.* 542, 543.

*Que*re whether a man be admitted to traverse a presentment except it charge him in the freehold. *Lam.* 543.

Travelling beyond the Seas.

Officer of Ports, or owner of a Vessell, suffering any woman or child under 21. years of age, except Saylers shipboyes, Apprentices or Factors of Merchants in their trades, to goe, or carrying any of them beyond sea without license of the King or six of the Privy Counsell
under

under their hands, such officer of the Ports forfeiteth his office and all his goods, and the master of the vessell his vessell, and imprisonment without bayle for twelve moneths, and loseth also all his goods. 3 *Jac.c.4.*

Any subject going beyond the seas to serve any forraine State, not taking the oath of allegiance before the Controller or Customer of the Port, or either of their deputy or deputies before his going, shall be a felon: the oath by them to be registred and certified into the Exchequer once every yeare, or lose 5. l. for every oath not certified. 3 *Jac.c.4.*

Any Gentleman, or of an higher degree, or Captaine, or other officer in the army before his going beyond sea to serve any forrain Prince or State, must be bound by the Controller or the Customer of the Port, with two sureties allowed by the officer unto the King in 20. pound, with condition not to be reconciled to the Pope, nor to practice any thing against the King, but knowing any thing to reveale it; the same bond to be by them registred and certified into the Exchequer once every yeare, or lose 5. pound for every default. 3 *Jac.c.4.*

Children not being Souldiers, Mariners, Merchants Apprentices or Factors, going beyond sea without license of the King or six of the Privie Counsell, (whereof the principall Secretary to be one) under their hands and seals, shall take no benefit by descent or otherwise of any lands, leases, goods or chattels, untill he or they being 18. years old or above, take the oath of Allegiance before one Justice of the Peace of the County where the Parents dwelt or dwell: and in the meane time the next of kin, being no Popish Recusant, to enjoy them till he shall conform

forme to take the said oath of Allegiance, and receive the Sacrament of the Lords Supper, and then to accompt to him for the meane profits, and in reasonable time to make payment thereof. And the senders lose 100. pound, one third part to the King, another to the suer, another to the poore. 3 Jac. c. 5.

Vide Transportation.

Traveller.

Inne-keeper or Alehouse-keeper, refusing to lodge a traveller, Justice of Peace, or Constable may compell him *quere* how, viz. to present the offence at the Assises or Sessions. *Dal. 28. Br. Action sur le case 76.*

Sir James Lee delivered that the Inne-keeper or Alehouse-keeper may for the same be indicted, fined, and imprisoned, or the party grieved might have his action *Dal. 28.*

Treason.

Treason is a grievous offence done or committed against the King in his person, the Queene his wife, his Children, Realme, or authority. *Dal. 227.*

As,

To compasse the death of the King, Queene his wife or of their eldest son and heire; or to intend any of their deaths, though it be not effected. *Dal. 227.*

To deflowre the Kings wife, his eldest daughter being unmarried, or his eldest sons wife. *Dal. 228.*

To levy war against the King in his Realme. *Dal. ibid. Br. Treason 24.*

To conspire to levy warre against the King. *Dal. ibid.*

To

To conspire with a Governour of another countrey to invade the Realm. *Dal. ibid.*

To kill one that is sent on the Kings message. *Dal. ibid.*

To encounter in fight, and kill such as be assisting to the King in his wars, or come to help the King. *Dal. ibid.*

To aid the Kings enemies in his realm. *Dal. 228.*

To counterfeit the Kings great Seale, Signe-Manuall, Privy-signet, or Privy-Seale. *Dal. 229.*

To take an old seal and put it to a new patent, *quare* whether treason or misprision. *Dal. ib. Sta. 3. C. Bro. Treas. 3.* And so of those that without authority set the Kings seal upon any writing, or fraudulently thrust a writing amongst others to seale, and so get it sealed. *Dal. ibid.*

To countefeit the Kings coyne, or any coyne currant within the Realme. *Dal. 229.*

To bring in any false money, knowing it to be false. *Dal. 229. 1. & 2. P. & M. c. 3.*

To clip, wath, and lighten or falsifie any coyn currant within the Realme. *Dal. ibid.*

To coyne money not having authority. *Da. ib.*

If he which hath the Kings warrant to coyne, doth coyne money in England, Ireland, or elsewhere lesse in weight then his ordinance, or coyneth false metall. *Dal. 229. Br. Treas. 19.*

All counsellors, proctors, consenters, or aiders of any the forenamed Treasons, are within the purview of the Statute 25 Ed. 3. for in treasons all offenders are principall. *Dal. 230.*

Counterfeiting gold or silver not the proper coyn of this Realm, is misprision of treason. 14 El. c. 3.

To kill the Kings Chancelour, Treasurer, Justice in Eyre, of Assise, of Oyer and Terminer, being in his place, and doing his office, is high treason. *Dal. 230.*

To

To extoll the authority of the Bishop of Rome within any of the Kings dominions, and the procurers, counsellors, ayders and maintainers thereof, the first offence is *Premunire*, the second treason. 1 *El.c.1.* 5 *El.ca.1.* *Lam. 411.* *Dal. 231.*

So to bring over any bookes that shall maintain, set forth or defend such authority, and the readers and hearers that shall justifie them. *Dal. 231.*

So deliverers of such books to others, with allowance and liking of the same. *Dal. ibid.*

So the printers and utterers of such books be all within the meaning of the statute. 5 *El.c.11.* *Dal. ibid.*

Refusing the oath of Supremacy, the first offence is *Premunire*, the second offence treason. 5 *El.c.11.* *Dal. 205.* *Lam. 410.*

To obtaine from Rome, or by any authority from thence any Bull, or writing to absolve and reconcile such as will forsake their obedience to the King, and yeeld it to the Pope, or give or take absolution by colour of such Bull, or publish, or put in ure such Bull. 13 *El.c.2.* *Dal. 231.* *Lam. 226.*

To absolve, perswade, or withdraw any subject from their obedience to the King, or to reconcile them to the Pope, or to draw them to the Romish religion for that intent, or move them to promise obedience to any other state, or procure, counsell, or aid them that doe it, is treason. 23 *El.c.1.* 3 *Fac.c.4.* *Lam. 220, 226, 412.* *Dal. 232.*

To be willingly absolved, perswaded, withdrawne, or reconciled to promise such obedience, or to procure, counsell, aid and maintaine the same, is treason, except within six dayes after their returne into the Realme, they submit

according to the statute. 3 *Jac.c.4. Dal. ibid.*

For Jesuite, priest, or other Ecclesiasticall person (made by authority from the Pope) to come into, or remaine in any of the Kings dominions, contrary to the statute. 27 *El.c.2.* is Treason.

To compasse the death of an usurper of the Crowne, is Treason, for which the offender may be arraigned in another Kings time. *Br. Treason 10. Dal. 227.*

To intend to deprive, depose, or dis-inherite the King, or say he will be King after the King dyeth. *Dal. 227.*

To set at large unlawfully any committed for Treason, is Treason by the Common-law. *Dal. 229.*

One imprisoned for felony breaketh prison, whereby a traitore escapeth; it is Treason in him by the Common-law. *Dal. 229. Cro. 35. a. nu. 5.*

Voluntarily to suffer one to escape that is committed, or onely under arrest for treason, is Treason by the Common-law. *Stam. 32. Dal. 229.*

Forfeiture in case of Treason is of lands and goods to the King, and at this day by 26 *H.8.ca. 13. 5 Ed.6.ca. 11.* his lands entailed, and his wife her dower, saving in certain cases. *Dal. 234.*

Judgement and condemnation of a woman in case of treason, is to be drawn on a hurdle to execution, and burned. *Stam. 182. Dal. 234.*

Treasurer.

Treasurer for relief of Gaoles is to be chosen at Easter Qu. Sessions by the more part of the Justices of Peace to be of 5. l. in lands or 10. l. in goods in the last subsidy, to continue but for one year, and then to give up his account at Easter Sessions to his successor. 43 *El. c. 2.*

The elected refusing the office, or to give reliefe or accompt, is to be fined by the Justices in Sessions, or by the Justices of Assises by discretion, but not under 3. l. 43 *El.c.2.*

Treasurer for Gaoles is to pay over to the Lord chiefe Justice, and to the Knight Marshall quarterly such summes as the Justices of Peace doe appoint. 43 *El.c.2.*

Treasurer for mained soldiers is to be elected by the more part of the Justices at Easter Sessions, and (not being a Justice of Peace) to be 10. l. in lands or 15. l. in goods in the last subsidy, to continue but one yeare, and for refusing the office, or misdeameanors, &c. to be fined by the more part of the Justices, but not under 5. l. 43 *El.c.3.* and to give up his account to his successor, within ten dayes after the Sessions.

The Churchwardens are ten dayes before every Qu. Sessions to pay over to the High-constables the taxation for Gaoles. 43 *El. c.2.* And the Churchwardens and pety Constable at the same time to pay to the High-constable the taxe for mained soldiers. 43 *El.c.3.* And the High-constables are to pay the same to the treasurers at the Qu. Sessions. 43 *El.c.2. & 3.*

If default of payment be made by the High-constable, he doth incur the penalties, viz. of 20. s. a time for the Gaole-mony, 43 *El. c.2.* and of 40. s. for souldiers mony, *c.3.* And if default be in the Churchwardens, for gaole money, 10. s. a time. If for souldiers money, the Churchwardens and pety Constables lose 20. s. a time. 43 *El.c.2. & 3.* The said forfeitures to be levied by the Treasurer by distresse and sale of the offenders goods, and taken in augmentation of the flock.

Trespas, *vide* Hedge-breakers.

Tryall.

As well Noblemen as Gentlemen in cases of Felony or Treason, or misprision of Treason, are to be tryed by their equals. *Lamb. 536.*

In Riots, Routs, unlawfull assemblies and forcible entries, Nobility shall be tryed by common jurors. *Lam. 539.*

All forraine Pleas tryable by Jury, and pleaded by any indicted of Treason, Murder or Felony, shall be tryed in the county where the party is arraigned, and by Jurors of that county. *22 H. 1. c. 14. 32 H. 8. c. 3. Lam. 552.*

Aliens indicted of felony or Murder, must be tryed *per medietatem linguae. Lamb. 554.*

Peere of the Realme indicted of Treasons upon the statute of *3 Iac. c. 4.* is to be tryed by his Peeres. *3 Iac. c. 4.* T

All Treasons, misprision of treasons, and concealment of Treason done or committed out of the Realme, shall be enquired and tryed within the Realme. *35 H. 8. c. 2. Dal. 235. Co. Inst. 261. b.*

He who is no Lord of the Parliament, being arraigned for Treason or Felony, shall be tryed by Knights and others, and not by the Lords of the Parliament. So shall Bishops by reason that they are Lords of the Parliament by their office, and not in respect of their Nobility. *Cro. 110. b. nu. 6. Stamf. 153. A.*

Turne of the Sheriffe.

Indictment at the Sheriffes Turn to be certified to the Justices at the Qu. Sessions. *Vide Certificate.*

Sheriffes turne to be holden within a moneth
O 2 after

after Easter, or within the month after Michaelmas. *Lamb.* 504.

Estreats of the Justices of Peace of Fines assessed upon presentments in the Turne being inrolled and indented, are to be levied by the Sheriffe to the use of him that was Sheriffe at the time of presentment. *1 Ed. 3. c. 7. Lamb.* 585.

V Agabonds, *vide* Rogues.

Venire facias.

Justices of Peace may award a *Venire facias* against the enditour, to amend a Bill upon the first oath. *Lam.* 507.8 *H. 5. c. 8. Stam.* 97.

Justices of Peace cannot award a *Venire facias tot matronas*, to know whether a felon be with child or no. *Lam.* 551.

Verdict.

The Jury in case of felony may give a speciall verdict, if they will, and the court, upon examination of the matter, may adjudge contrary to the verdict. As, The Jury found that *A.* killed *B.* *se defendendo*, and upon examination of the matter, the court adjudged it to be manslaughter against the verdict. *Cr.* 114. a. nu. 1.

Though the Indictment specifie the goods to be above 12. d. yet the Jury may say that the goods were worth but 8. d. upon which verdict it shall be taken as pery-larceny. *Cro.* 114. a. nu. 2.

A man is arraigned of murder, & by the jury it is found but manslaughter, it is good, *Cr.* 114. a. nu. 3.

Vessels.

Vessels of Ale and beer are to be made of seasoned

soned wood, with the mark of him that sealed it.
Lam. 460.

Every barrell for beere and every barrell for ale, and so every lesser vessell by 32 *H. 8. c. 4.* ought to containe under paine of 3. shill. 4. pence for each default:

Beere	{	Barrell 36.		{	Ale	{	32		
		Kilderkin 18.					16		Gallons.
		Ferkin 9.					8		

But now by the statute 1 *Iac. c. 9.* ale and beere shall be sold by retaile by one and the same measure, namely by the ale-quart. *Cro. 94. b. Dal. 152.*

Vide Assise of Bread and Beere.

Wine	{	Tunne	252.		
		Pipe	126.		Gallons.
Oyle	{	Hogshead	63.		Dalt. 152.
		Barrell	32. and halfe.		
Hony	{	Rundlet	16. and halfe.		

But *Crompton 94 b.* saith, *Popham* chiefe Justice saith that the measure of wine and ale should be all one, and that so it was agreed by the Justices according to the standard of the Exchequer. But note, saith *Crompton* there, that the ale-quart is greater, for that the froth of the ale amounts a little, and wine doth not froth, and therefore there should be a nick in the top of the wooden kan, where the measure should be, to which nick the ale should come. *Cro. 94. b.* And so *Mr. Wallis* Clerk of the Qu. market told him, Jan. 25 1588.

Hering the barrell, halfe barrell, firkin, shall be of the same content that ale is, namely the barrel 42. Gallons, &c. 13 *El. c. 11. 11 H. 7. c. 23. Da. 153.*

Sope and Butter shall be of the same content with ale, and the empty barrell not to be in weight above 26. pound, and for the other vessels in proportion. 23 *H. 8. c. 4. Dal. 151. Lam. 461.*
The penalty is 3. shill. 4. pence for each one.

306 Victuals and Victuallers.

If Butcher, Fishmonger, Inholder, Tippler, Brewer, Baker, Poulterer, and other seller of victuall doe sell at unreasonable rates, and not for moderate gaine, they lose double value. *Lamb.* 454. 23 *E.3.c.6.* & 13 *R.2.c.8.*

Brewer selling drinke at higher prices then have beene appointed by the Justices of Peace, loseth after the rate of 6. shill. a barrel. 23 *H.8.* 6.4. *Lam.455.*

Conspiracy or oath taken, or promise made by Butchers, Bakers, Brewers, Poulterers, Cooks Fruiterers, or any mysterie, or any of them, not to sell but at prices agreed between them, the first offence 20. pound, or 20. daies imprisonment; the second, 20 pound or Pillorie; the third, 40. pound, or lose an eare. 2 *Ed.6.c.15.* *Lam.455.*

To sell swines flesh mezelled, or flesh that dyed of the murraine, or other corrupt victuall. *St. de pistoribus, cap.7.* 51 *H.3.* *Lam.455.* is fineable.

Any, except victuallers in their houses, buying to sell againe by retaile butter or cheese, unlesse it be in open Faire or Market,, loseth double value. 3 *Ed. 6. ca. 21.* 14 *El.cap.11.* 27 *El.c.11.* *Lam.456.* 1 *Jac.c.25.*

Processe upon the statute of 23 *H. 6. c.13.* against victuallers is attachment, *Capias*, an Exigent.

Brewer, or other selling of ale or beere unto any unlicensed Alehouse-keeper, other then for necessary provision for his owne household, loseth after the rate of 6. shillings 8. pence a barrell, one moiety to the poore, the other to the informer to be heard and determined at the Qu. Sessions. 4 *Iac.c.4.* *Lamb.460.*

The officer levying the penalty of 4 *Iac. c.4.* and not delivering the moiety to the Churchwarden or Overseers of the poor, or not distributing

buting it within convenient time after receipt, forfeiteth the double to be recovered as the penalty. 4 *Jac.c.4.*

Vidwaller is within the statute 1 *Jac.c.9.*
4 *Iac.c.5.* 1 *Car.c.4.*

Vide Transportation, Alehouses, Tipling.

Undersheriffe.

Custos Rotulorum, or two Justices of the Peace, one to be Quorum, may give unto Undersheriffes before they exercise their office, the oaths of 1 *Eliz.* of supremacy, and 27 *Eliz.c.12.* touching their office; so of their deputies and Clerks, or any other meddling with returning of writs or execution of proceſſe into any Court of record. So of Bayliffes, any of them executing their office before such oathes taken, lose 40. pound. 27 *El.c.12.* *Lam.356,432,433.*

Undersheriffe or his Clerke or deputy doing any thing against their oath, lose treble damages to the party. *Lam.433.*

Unlawfull games.

Every Justice of Peace may enter into any common place where any playing at dice, tables, cards, bowls, coits, cayls, tennis, casting the stone, football or any unlawfull game new invented, and hereafter to be invented, shall be suspected to be used, and may arrest the keeper of every such place, and may imprison them untill they find sureties by recognisance no longer to use such house, game, play, alley or place. 33 *H.8.c.9.* *Lam.191.* *Dal.64.* *Cro.79.a.* *131.a.* *196.a.* *197.b.* *Lam.349,479.*

Justice of peace may arrest and imprison such players till they be bound no more to play at such game. *Lam.892.* *Cro.172.a.b.* *Lam.149,479.* *Dal.63.*

Artificer of any occupation, or any husbandman, apprentice, labourer, servant at husbandry, journeyman, servant of artificer, mariner, fisherman, waterman, or servingman, other then of a Nobleman or of him that may dispend 100. l. by the year, playing within the precinct of his mastershouse, shall not play out of Christmas at any unlawfull game, or in Christmas out of the house or presence of his master. 33 H. 8. c. 9. *Lamb.* 479. 20. shill. every time. *Quere* if other games besides those prohibited 33 H. 8. c. 9. be unlawfull, as the morrice and other open dances, bearbaitings, common-playes, and fencings, which seeme to be prohibited by 39 El. c. 4. *Dal.* 63. 1 C. r. c. 16.

All offences against the statute of unlawfull games may be heard and determined at the Qu. Sessions, Assises, or leet within which they shall happen. *Lam.* 614. *Vide plus* Sunday.

Unlawfull assemblies.

An unlawfull assembly is of the company of three or more persons disorderly comming together, forcibly to commit an unlawfull act, as to beat a man, or enter upon his possession, or the like. *Lam.* 175. *Dal.* 221. *P. R.* 25. *Cro.* 61. a. nu. 3.

First, an unlawfull assembly it is, onely to meet to such a purpose, though they willingly depart without doing any thing. Secondly, after meeting to move forward toward the executing of such act, whether it be done or no, is a rout. Thirdly, to execute such a thing, is a Riot. *Dal.* *ibid.* *Lam.* 175, 176. *Cro.* 61. a. nu. 3.

In an unlawfull assembly, Rout, or Riot, two things are common, and must concur: first, that three persons at least be gathered together; secondly, that their being together breed some
apparent

apparent disturbance of the peace, either by speech, shew of armour, turbulent gesture, or actually and expresse violence to affright peaceable men, or imbolden light and busie bodies by their examples. *Lam. 176, 177.*

There be three degrees of seditious and riotous assemblies: the first from three to twelve; the second of 12. or more; the third of 40. and upward. *Lam. 183. 1 El. c. 17.* Justice of Peace may at his discretion assemble subjects to take such, and may take them, and shall be unpunished for hurting, maiming, or killing them if they make resistance. *Lam. 184.*

Justice of Peace is to take the declaration of any person that (being moved to such an assembly) will within 24. houres after reveal the same. *Lam. ibid.*

Vide Forcible Entry, Riots.

Usury.

Corruptly to contract for more then eight pound in the hundred, for forbearance for one yeare, loseth treble value of the moneys, wares, merchandise and other things so lent, bargained, sold, exchanged or shifted. 21. *Jac. c. 17.*

Scriveners taking above five shillings for procuring 100. pound, and for a bond above 12. pence, forfeit 20. pound. *Ibid.*

Utlawry.

Offenders against the Peace for conspiracies, and of Routs in presence of the Justice or in affray of the people, being indicted thereof, if they be not brought in by attachment or distresse (for insufficiency) are to be outlawed. 8 *Ed. 3. c. 5.* *Lam. 522.*

After Utlawry the Justices of P. can award

no proceſſe, but muſt certifie the utlawry into the Kings Bench. *Lam.* 521, 522.

One outlawed of felony before Juſtices of Peace doth appeare, and ſaith he was in the Kings ſervice beyond ſea under ſuch a Captaine, or in priſon in ſuch a County; the Juſtices cannot write to the Captaine or County. *Lam.* 552.

Wages.

Rates of wages of ſervants and labourers are to be made by the Juſtices of Peace at Eaſter Qu. Seſſions, and by them to be ingroſſed in parchment under their hands and ſeales, and after it ſhall be lawfull for the Sheriffe of the ſaid County to cauſe proclamation to be made of the ſeverall rates ſo rated in ſo many places of their ſeverall authorities, as to them ſhall ſeeme convenient, and as if the ſame had beene ſet downe printed by the Lord Chancellour or Keeper, after declaration thereof to the Kings Majeſty, and certificate thereof into the Chancery. 39 *Elc.* 12. 1 *Iac.* c. 6.

Any giving wages contrary to the rates appointed and proclaimed, loſeth 5. pound. 5 *Elc.* 4. 1 *Iac.* c. 6. *Lam.* 474.

Every Juſtice of Peace (not having lawfull excuſe teſtified by oath of one that is in ſubſidy 5. pound, &c.) that ſhall not aſſemble at Eaſter Seſſions, or within 6 weeks after, to rate the wages of ſervants, &c. ſhall loſe 10. l. 5 *Elc.* 4. *La.* 632.

Any having authority by 5 *Elc.* 4. to rate wages, may rate the wages of labourers, weavers, ſpinſters, and of any working by day, week, month or year, or by great. 1 *Jac.* c. 6.

No

No penalty for not certifying the rates of wages into the Chancery, according to the statute § *El.c.4.* if they be duly proclaimed. 1 *Iac.c.6.*

Rates of wages ingrossed in parchment are to be kept by the *Custos Rotulorum*; if in a Corporation, amongst the records thereof. 1 *Iac.c.6*

Any two Justices of Peace may imprison without bayle the master for ten dayes for giving, and the servant, workman or labourer for 21. dayes, for taking greater wages then are assessed by the Justices of Peace, and Proclamation thereof made in that county. § *El.c.4. Dal 80.* Every retainer, promise or payment of wages, or other thing whatsoever, contrary to the true meaning of § *El.c.4.* and every writing and bond for that purpose is utterly void. *Dal, 80.*

Justice of Peace may have his action of debt against the Sheriffe for his wages at the Sessions. *Cro. 177.a.nu.23.*

Justices of Peace shall be paid their wages out of the fines and amerciaments of the same Sessions, and they ought to assesse the fines in the Court, and then the Clerk shall indent the estreats betwixt the Justices and the Sheriffe, and the Justices shall put their names thereto, to the end the Sheriffe may know to whom to pay wages, and levie the same to pay to Just. whereupon the Sheriffe shall be allowed the same upon his accompt in the Exchequer. 14 *R. 2 c.11. La. 628. Cro. 177.a.nu.30.*

Wainlings.

Any killing any wainling Calves under two years old to sell, lose 6.shil.8.pence for every offence determinable at the Quarter Sessions. 24 *H.8.c.9. 1 Iac.c.25. Lamb. 453.607.*

Wait.

Wait-lying.

Lying in wait to maim or kill any other, is be fined. *Lam.* 446.

Warrants.

The Justice of Peace his command by word of mouth is in some cases as strong as his precept in writing. *Dal.* 336.

As,

A Justice of Peace seeing a Riot may command the Rioters to be arrested, and cause them to find sureties for their good behaviour. *Dal.* 336.

So upon affray, assault, threatening or any other breach of the Peace done in his presence, he may command the officer being present to arrest such offenders to find surety for the Peace. *Dal.* 336.

But for causes out of his presence one may not arrest another upon the Justices command, but by precept in writing. *Dal. ibid. Br. Peace* 7.

A warrant in writing must be under the Justices hand and seale, or under his hand at least. *Dal.* 336. *Lam.* 85, 88. But it is better if under seal. *Dal.* 337.

A warrant for the Peace or good behaviour must containe the speciall matter, *Dal.* 336. *Lam.* 87. but it is better under his seale. *Dal.* 337.

A warrant for treason, murder or felony, or other capitall offence & such like, need not containe the speciall cause. *Cro.* 148. a. *Dal.* 337.

A warrant is better if it containe and beare the date at the place where it is made, the yeare and day when it was made. *Cr.* 174. a. *Dal. ibid. Lam.* 88.

Justice of Peace being out of the county, granteth

reth his warrant to be served in the county; the officer must carry the party before some Justice of Peace within the county. *Dal. ibid. Lam. 91.*

The county written in the margent of the warrant, albeit it be not expressed in the warrant, and in *Com. prædicto*, shall have relation to the county set in the margent. *Cro. 102. b. nu. 29.*

Justice of Peace may make his warrant to come before himselfe: yet upon a warrant for the Peace the usuall manner is otherwise. *Co. 5. 59. Dal. 170. & 338.*

In some cases a Justice of peace may grant his warrant to attach the offender to be at the next Sessions of Peace, to answer his said offence. *Dal. 338.*

Justice of P. may grant his warrant against one that hath broken the Peace, or committed misdemeanors against the Peace, to find sureties for the Peace, or good behaviour. *Dal. 34, 162, 165, 338.*

Justices of Peace in divers cases (as the case shall require) may grant their warrant for the parties neglect, or other default: and such warrant may be either to attach him to be at the next Sessions, there to answer, &c. or to bring the offender before the said Justices, or any other Justice, &c. who finding cause to bind him, may bind him to the next Sessions to answer the said default. *Vide Dal. 338. & 160.*

Where the statute giveth authority to Justices of peace to cause another to doe a thing, they have power of congruity to grant their warrant to bring such persons before them, that so they may take order therein. *Quare Dal. 338.*

A Justice of Peace maketh a warrant beyond his authority, it is not disputable by Constable
or

or other inferiour officer, but must be obeyed. *La. 65. Da. 8, 242, 342.*

But if the Justice make a warrant to do a thing out of his jurisdiction, or in a cause wherein he is not Judge; if the officer execute the warrant, he is punishable. *Dal. 342. Cro. 147. b. Dal. 8. Lam. 91, 92.*

Warrant for the Peace may be directed to any indifferent person by name, though he be not officer: yet it is better to a known officer. *Dal. 340. Cro. 147. a. Lam. 88.*

A sworne and knowne officer need not to shew his warrant; but the servant of the Justice must shew it if it be required. *Dal. ibid. La. 89. Cro. 148. a.*

A warrant directed to the Constable, and to a stranger joyntly and severally, and executed solely by the stranger, is good. *Cro. 147. b. Dal. 340.*

Warrant directed to two joyntly to arrest another, may be executed by one of them. *Dal. 340. Lam. 89.*

A Just. of P. may make his warrant to the Sheriffe to attach one to bring him to the Sessions to find surety of the Peace. *Cro. 136. a.*

A warrant being directed by a Justice of Peace to the Sheriffe, he may by word command any sworne or knowne officer under him without precept in writing. *Dal. 340. Lam. 89.*

If a Justice of Peace his warrant be directed to the Sheriffs, Bailiffe, Constable, Iustices servant, or other to arrest one, such person must serve it himselfe. *Lam. 89. Dal. 340.*

He to whom any warrant shall be directed, must doe it with all secrecy and speed. *Dal. ib.*

A known officer must, if he will not shew his warrant upon arrest, declare the content of his warrant. *Co. 6. 54. & 9. 68. Da. 341.*

Upon arrest in the Kings name, the party arrested

rested ought to obey, *Dal. ibid.* for if he have not lawfull warrant, the party grieved may have his action of false imprisonment. *Dalt. ibidem. Coke 9.68.*

An officer arresting a man doth afterwards procure a warrant; this is a wrongfull arrest. *Dal. 341. Lam. 90, 91.*

The officer having a warrant for the peace, or good abearing, may break open the doors. *Da. 341. Cro. 170.b.*

One is arrested, who upon promise to come againe is let goe, and commeth not againe; the officer cannot arrest him by force of his former warrant, except he prosecutes him with fresh suit. *Dal. ibid. Br. Faux impr. 18.*

An officer having a lawfull warrant to arrest another, is resisted or assaulted by the party or any other person; the Officer may justifie the beating or hurting such person. *Dal. 341. Lam. 92.*

If any abuse the warrant, as by casting it in the dirt, or treading it under his feet, he shall be indicted and fined; for it is the Kings proceffe. *Dal. 342. Cro. 159. Quere,* whether he shall not be bound to his good behaviour. *Dal. ibid.*

Before that a Justice of Peace grant his warrant to arrest one for murder, robbery, or felony, it is meet to examine the party that requireth the warrant upon oath, and to bind him to give evidence at the next gaole-delivery. *Dalton 342.*

Justice of Peace is not to grant his warrant against an offender of a penall statute to appeare at the Sessions unlesse it be appointed by statute, but he ought first to be indicted. *Lam. 187. Dal. 339. Cro. 197. a. nu. 21.*

Justice of Peace cannot make a warrant to arrest a felon except he be indicted. *Cro. 174. But Dalton*

Dalton argueth that a Justice of Peace may make such a warrant. *Vide Dal. 339.*

One wrote to a Justice of Peace to send him a Warrant with a blank, to insert therein one whom he would attach for suspicion of felony. The Justice did so: And for that he sent his Warrant with a blank, to put in a name which he knew not, nor the matter before the making of the warrant, he was fined in the Star-chamber. *Cro. Jurisd. 34. a. Dal. 337.*

All Warrants made in the Kings name, ought to be directed, To all Ministers as well within liberties as without. *Dal. 355.*

Warrants may be made either 1 in the name of the King. Or 2 in the name of the Justice; and either of them must be testified by the Justice from whom they issue. Or 3 without style by the subscription of the Justice. *Dal. 335.*

Vide plus Surety of the Peace.

To what Officers Warrants are to be directed by particular statutes.

To the Churchwardens for negligent comers to Church, to levy 12. d. 3 *Ia. c. 4.*

To the Constable or Churchwardens Against an Alehouse-keeper, to levy 10. s. for suffering tripling. 1 *Iac. c. 9.*

To levy 20 shil. for breaking the assise. 1 *Ia. c. 9.*

For selling Ale without license 20. s. 3 *Car. c. 4.*

For tripling in an Alehouse 3. shill. 4. pence. 1 *Iz. c. 9.*

For abuses on the Lords day. 1 *Car. c. 1.*

For Carryers on the Lords day. 20. s. 3 *Car. c. 1.*

Shewing boots to sell on Sunday 3. shill. 4. d.

1 *Iac. c. 22.*

To the Constables, Churchwardens, or Overseers

feers of the poor for swearing 12.d. 21 *Iac.* 20.

To the Constable or other inferiour officer for drunkenness 5. shill. 4 *Iac.* 5. 21 *Iac.* 6. 7.

Warreners, *vide* Forresters.

Watches.

Any Justice of Peace may cause night watches to be kept for the arresting of nightwalkers and persons suspect, be they strangers or others of evill fame. *Dal.* 144. 13 *E.* 1. *Stat. Winton* c. 4.

Watch is to be kept yearly from Ascension day till Michaelmas in every town, from sun setting to sun rising. *Dal.* 144. *Lam.* 440.

All strangers or persons suspected, passing by the watching men, may be examined by them; & if there be cause of suspicion, they may stay them, and if they will not obey, may levie hue and cry, and may justifie to beat them, and may stock them till morning; and if they find no cause of suspicion, deliver them; but if they find cause, may deliver them to the Constable, to carry them before a Justice of Peace. *Dal.* 144, 300.

Any Justice of Peace may cause all nightwalkers, strangers or other suspected, especially such as sleep in the day, and walk in the night, to be arrested, and such as in the night haunt any house suspected of bawdery, or use suspicious company, or commit other outrages or misdemeanours, and cause them to find sureties for their good behaviour. *Dal.* 88. *Lam.* 118, 119.

No man is compelled to watch unless he be an inhabitant in the towne. *Dal.* 145.

Inhabitants are not compellable to watch at the will of the Constable, but when his turn cometh. *Dal. ibid.*

Water-

Watermen.

Every Justice of Peace within the shire next adjoyning to the river of Thames within his jurisdiction, hath power upon complaint by the overseers or rulers of the Watermen and Wherry-men, or two of them, or by the masters of any such servants, both to examine, heare and determine all offences against the statute, and set at large him that shall be imprisoned by the overseers and rulers, if there be just cause, and also by his discretion to punish those overseers and rulers, that shall unjustly punish any person. 2. & 3. Ph. & Mar. c. 16. Lam. 203. Dal. 155.

The offences against the statute are,

1 No single man shall be a waterman. 11a. c. 16.

One of the two rowing in one boate must be allowed by eight of the overseers by writing under scale.

3 They shall not hide themselves in time of pressing for the Kings service.

4 They shall not take for their fare above the price assessed, and set up in tables in Westminster Hall. Dal. saith, *quere* whether the Justices of Peace be to meddle with this.

Wax.

One Justice of Peace may examine and search by his discretion such as doe sell any candles, or worke of wax above foure pence in the pound cleare gaine over the price of the Wax, and punish them by forfeiture of that which is to be sold, and the value of that which is sold, and fine to the King. Dal. 145. Lam. 196, 469. 11 H. 6. s. 12.

Weapons

Weapons which be forcible, *Vide*
Forcible Entry.

Weeres.

Weeres in rivers may be surveyed by one Justice of Peace, which he may cause to be made of a reasonable widenesse. *Lam.* 189.

Any making Weeres within five miles of the mouth of any haven or creeke, or by weeres destroying any frie of fish of the sea, loseth 10. pound, one moiety to the King, the other to the informer. 3 *Iac. c. 12. Dal.* 56. explaineth the particulars of that stat. of 3 *Iac. c. 12.*

Weights and Measures.

Faults of the officers of Cities and Boroughs in not viewing and examining weights and measures twice a yeare, to be heard and determined by examination and enquiry of two Justices of Peace, one being of the Quorum, and by them to be fined and amerced; and so of faults of buyers and sellers, by other weights and measures then they ought to doe. 11 *H. 7. c. 4. 12 H. 7. c. 5. Lam.* 356. *Dal.* 146.

Two Justices of the Peace (one of the Quorum) may breake and burne such measures as they finde defective, and fine the offenders by their discretion, and make processe against them as in trespassse. 12 *H. 7. c. 5. La.* 356. *Da.* 146. 11 *H. 7. c. 4.*

Mayors of townes taking above a penny for sealing a bushell or other measure, or for weights above a penny for an hundred, an halfe penny for halfe an hundred, a farthing for a lesse weight, lose 40. s. 11 *H. 7. c. 4. Lam.* 437. *Dal.* 155. 7 *H. 7. cap. 3.*

Buying

320 Weights and Measures.

Buying and selling by unlawfull weights or measures, or in any City or market, with any Weights or measures that are not lawfully marked or signed, he loseth for the first offence 6 shillings eight pence, for the second offence 13 shillings 4 pence, and for the third 20. shillings and Pillory. 11 H.7.c.4. *Lam.460.*

To buy corne by heaped measure, except on shipboard, or to use double measure, the one to buy, the other to sell with, the first offence is six shillings eight pence, the second 13 shillings 4. pence, the third 20. shill. and Pillory. 11 H.7.c.4. *Lam.460. 15 R.2.c.4. Stat. de Pistoribus c.8.*

Those of the towne where the Kings Standard is appointed to remaine, not having common weights and measures signed, or not selling by the same to all that have required the same, are to be fined and amerced. 11 H.7.c.4. *Lam.460. Dal.155. vide plus Vessels.*

Witchcraft.

Invocation, Conjuraton, consultation, covenant, intertainment, imployment, feeding or rewarding any evill spirit, taking up of dead bodies, or any part thereof, to be imployed in Witchcraft or Charmes, or using any manner Witchcraft, whereby any person shall be killed, or any part of them wasted or lamed, and also the accessaries, is felony without Clergy. 1 Jac. c.12. *Lam.415. Dalt.280.*

By Witchcraft or Charmes to find out hidden treasures, to tell where lost goods shall be found, to provoke unlawfull love, to destroy or hurt any mans body, or to attempt any of them, the first offence is one years imprisonment without baile, and to stand in the Pillory six houres every quarter of the same yeere, and confesse his offence;

offence; the second is felony without Clergy.

1 *Iac. c. 12. Lam. 415.*

Tryall of Noblemen upon the stat. of 2 *Iac. c. 12.* of Witchcraft, is to be by his Peers. *La. 415.*

Attainder upon the stat. 1 *Iac. c. 12.* of Witchcraft, neither losse of Dowre, nor corruption of Blood. 1 *Iac. c. 12. Lam. ib.*

Wines.

Wines brought in strange bottomes from *France* into any part of *England*, except the Ile of *Man* and *Wales*, forfeit the Wines. 27 *El. c. 12. Lam. 457.*

Any licensed to retaile wine, selling above the prices limited by Proclamation, lose 3.s.4.d. for every Gallon. 27 *El. c. 11. Lam. 458. 5 El. c. 5.*

Any under a Barons sonne, or under 100 marks a yeere, or 1000. marks in goods, keeping to spend in his house any vessels of *Gascoigne* wine, *French* or *Rochel* wine, above 10. gallons, loseth 10. pounds. 7 *E. 6. c. 5 Lam. 458.*

Woad.

Woad brought from *France* into any part of *England*, except the Ile of *Man* and *Wales* in a strange bottome, forfeiteth the Woad. 27 *El. c. 11. Lam. 457, 458.*

Wood.

Upon complaint of the Lord, and disagreement of the Lord and his commoners, the fourth part of the Lords wood may be set forth by two Justices, appointed by the greatest part of the Justices at their Sessions, and not being of kindred or alliance, or fee to the Lord, 35 *H. 8. c. 17. 13 El. c. 25. Lam. 359.*

Just. in Qu. Sessions may call before them the
owner

owner of the wood, and 12 of the Commoners to set out the fourth part. *Lam. 609.*

Ingrosser or regrater of Barke, forfeiteth the Bark. 1 *Jac. 22. Lam. 452.*

Any selling of Oakes meet to be barked, before Aprill, or after June, except for necessary building, as repairing of houses, ships, mills, lose the Oake or double value. 1 *Iac. 6. 22.*

Purveyors taking Timber for the repaire of the Kings ships or houses, the owner may retaine all the Barks lop and top, and the Purveyor taking them, loseth for every tree 50. shillings to the party grieved. 1 *Iac. 22. Lam. 438.*

Wooll and Wooll-seller.

Buyer of Wooll of any other then the owner of the sheepe or tithe, lose the value. 14 *R. 2. 6. 4. Lam. 452.*

Woollen-yarne.

Buyer of Woollen-yarne, and not make it into cloth, loseth the value thereof. 8 *H. 6. 5. La. 452.*

Any sorter, carder, kember, spinster or weaver receiving wooll and yarne of any clothier or maker of stuffe, and embezelling, selling, or detaining the same, and the Receiver or buyer knowing thereof, upon conviction, by confession or oath of one witnesse before two Justices of Peace, is to make such recompence to the party, as the Just. shall appoint: and the offender being unable & refusing to do it, is to be whipt or stocked. 7 *Ia. 7. 6. 7.*

Women.

Women arraigned for felony, may onely for one time have the benefit of their belly. *Lam. 563.*

Just. of Peace cannot award a *Ventre facias* tot *matronas*, to know whether a felon be with child. *Lam. 551.*

Ta-

Taking away a woman against her will that hath land, &c. or is heire apparent, not claiming her as ward, and after marry or defloure her, is felony without Clergy. So of the procurers, abettors and receivers knowing thereof. 3 *H.7.c.2.La.421.*

A woman being delivered of a Bastard-childe, and borne alive, that endeavoreth privately by drowning, secret burning, or other way by her selfe, or procuring of other, to conceale the death thereof, as that it may not come to light whether it were borne alive or dead, shall suffer as in murder, except she can prove by one witnesse that the childe was borne dead. 21 *Iac. 27.*

Women convicted of felonious taking above 12. d. and under 10. s. being not Burglary or Robbery in or neare any high way, nor taking of money, goods, or chattels from the person of any, privily or as accessary to any such offence, wherein a man may have his Clergy, shall for the first offence be burned in the hand and further imprisoned, whipped, and stocked, or sent to the house of Correction (not above a yecre) as the Justices before whom the conviction is, shall think meet. 21 *Iac. 6.Dal.272,273.*

Wife and her husband are bound to appeare at the Sessions, and in the meane time to keepe the peace. The husband onely appearing, the Recognizance is not forfeited. *Dal. 179. Quare tamen. Cro. 144.b.*

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